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The "Becca Bill" Would Not Have Saved Becca: Washington State's Treatment of Young Female Offenders

Tiffany Zwicker Eggers*

Introduction

On the afternoon of October 17, 1993, John Metlock, a man in his mid-30s, approached 13-year-old runaway Rebecca Hedman.¹ He offered her \$50 for sex.² A few hours later, the young runaway was dead.³

After Metlock and Becca had sex, Metlock demanded his money back.⁴ When Becca refused, Metlock grabbed a baseball bat and repeatedly clubbed Becca on the back of the head.⁵ Metlock then threw Becca's nude corpse into his car, drove to the Spokane River and dumped her corpse in the weeds.⁶ Later, two people walking their dog found Becca's dead body on the river's embankment.⁷

When Becca was a teenager, she ran away from home on several occasions.⁸ Each time Becca's parents attempted to bring her

* J.D., University of Minnesota Law School, expected 1998; M.P.A., Hubert H. Humphrey Institute of Public Affairs, expected 1998; B.A., Wartburg College, 1993. I offer my sincere gratitude to Professor Barry Feld for providing me with the inspiration for this Article. I would also like to thank my colleagues at *Law & Inequality*, especially Amy Hennen, Ben Weiss, Danyll Foix and Jon Hegre for their comments and editorial assistance. Finally, I am indebted to my parents, Ron and Carmen Zwicker, and my sister Trina, for their constant love and encouragement, and to my life partner, Scott, for sacrificing many precious hours of sleep in order to provide me with his helpful editing insights and never-ending support.

1. See *Dateline: Profile: Born to Run?; Parents in Washington Seek Law to Keep Children From Running Away* (NBC television broadcast, June 23, 1995) [hereinafter *Dateline*].

2. See *id.*

3. See *id.*

4. See *id.*

5. See *id.*

6. See *id.*

7. See Kery Murakami, *Would "Becca Bill" Have Saved Becca?*, SEATTLE TIMES, June 23, 1995, at A1.

8. See *infra* Part I.A (describing Becca's childhood).

home, they felt that the current laws frustrated their efforts.⁹ Angered by Becca's death, her parents sought legislation which they thought would help other parents bring home their runaway children.¹⁰ The Hedmans lobbied for stronger parental and police control over delinquent juveniles.¹¹ The Hedmans believed that parental control over runaways could prevent future trouble for girls like Becca.¹² In 1995, the Washington State Legislature enacted a bill that gives parents considerable control over their runaway children.¹³ This Bill was named the "Becca Bill" after Rebecca Hedman.¹⁴ Unfortunately, while the Hedmans intended to save the lives of girls like Becca, the law they helped create will instead worsen the plight of runaway girls.¹⁵

For most people concerned with juvenile crimes, delinquency is a male activity.¹⁶ As a result, Becca and thousands of other girls like her are virtually invisible in the juvenile justice system.¹⁷ Contrary to this widespread perception, the juvenile justice system does affect the lives of many young women; approximately one

9. See *infra* Part I.B (explaining Becca's parents' efforts to bring Becca home).

10. See *infra* Part I.B (reviewing the Hedmans' efforts to save runaway girls like Becca).

11. See *infra* notes 46-49 (reporting how the Hedmans lobbied for the Becca Bill).

12. See *infra* notes 45-48 (examining the Hedmans' reasons for supporting the Becca Bill).

13. See *infra* Part III (providing a detailed description of the Becca Bill).

14. Becca Bill, ch. 312, 1995 Wash. Laws 1319, amended by Becca Too Bill, ch. 133, 1996 Wash. Laws 426.

15. See *infra* Part IV (explaining that the Becca Bill will harm rather than help delinquent females).

16. See MEDA CHESNEY-LIND & RANDALL G. SHELLEN, *GIRLS, DELINQUENCY, AND JUVENILE JUSTICE* xi (1992). Opinion polls show that when people discuss delinquency, they generally mean male delinquency. See *id.* at 1. Academic research and writing about delinquent behavior has generally focused on male delinquency. See *id.* at 2; see also Ronald J. Berger, *Female Delinquency in the Emancipation Era: A Review of the Literature*, 21 *SEX ROLES* 375, 376-79 (1989) (suggesting that criminal justice literature has traditionally focused on male offenders); Ilene R. Bergsmann, *The Forgotten Few: Juvenile Female Offenders*, *FED. PROBATION* Mar. 1989, at 73, 73 (noting that during the past couple of decades, very few research studies, congressional inquiries or court cases have focused on girl offenders). Bergsmann states:

Adolescent female offenders have been described as a "specialty item in a mass market." Generally overlooked and frequently ignored, relegated to a footnote, and perceived as sexually deviant and in need of protection, these young women have received scant attention from members of the juvenile and criminal justice communities.

Id. (citation omitted).

17. See CHESNEY-LIND & SHELLEN, *supra* note 16, at xi (explaining that the invisibility of girl offenders in the juvenile justice system is part of the reason they decided to write their book).

quarter of the young people arrested every year in the United States are girls.¹⁸ Nevertheless, most juvenile justice systems are designed without an awareness of girls' lives and problems.¹⁹

As one commentator has recently noted, the Becca Bill represents a step backward in juvenile justice for all youths.²⁰ The Becca Bill is viewed as a model by other states, including Minnesota, and several states are considering adopting similar provisions.²¹ The unique problems that girl offenders face must be fully understood so that discriminatory legislation such as the Becca Bill will not be enacted in the future.

Girls in the juvenile justice system are victims of discrimination on three levels. Girl offenders are victims first at home, as primary targets of sexual abuse;²² then upon entering the juvenile justice system, where they are treated discriminatorily;²³ and finally, once inside the system, where they are victims of neglect.²⁴

This Article examines how the Becca Bill fails girls by reinforcing the insidious societal and systemic processes that victimize female juvenile offenders, ultimately creating more problems than

18. See *id.* at 1; see also OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPT OF JUSTICE, FEMALE OFFENDERS IN THE JUVENILE JUSTICE SYSTEM 3 (1996) [hereinafter FEMALE OFFENDERS IN THE JUV. JUST. SYS.]. In 1993, U.S. law enforcement agencies made an estimated 570,100 arrests involving females under the age of 18. See *id.* This figure comprises 24% of all juveniles arrested that year. See *id.*

19. See generally CHESNEY-LIND & SHELDEN, *supra* note 16, at xii (critiquing reforms, original decisions and policy design affecting delinquent girls).

20. See Allison G. Ivey, *Washington's Becca Bill: The Costs of Empowering Parents*, 20 SEATTLE U. L. REV. 125, 127 (1996). Ivey examines the lockup and bootstrapping provisions of the Becca Bill. See *id.* Ivey concludes that the Bill "represents a dangerous trend back to the days of *parens patriae* and excessive court intervention into the lives of noncriminal youths." *Id.* Her criticism of the Becca Bill is gender-neutral, thereby missing the Bill's disparate effect on girls. See *id.*; see also *infra* notes 102-110, 124-129 and accompanying text (defining and explaining the lockup provisions in the Becca Bill); *infra* notes 181, 183-192 and accompanying text (defining and explaining the bootstrapping provisions in the Becca Bill).

21. See Ellen Tomson, *Runaway Justice*, ST. PAUL PIONEER PRESS, Mar. 16, 1997, at 1A. Minnesota State legislators support a bill patterned after Washington's Becca Bill that would change the way Minnesota manages runaways. See *id.* at 8A; see also Ellen Tomson, *Advocates Tug at Pendulum of Parental Control*, ST. PAUL PIONEER PRESS, Mar. 16, 1997, at 1A [hereinafter *Advocates*] (discussing the ongoing debate over whether to give Minnesota parents and the state more control over juveniles who run away).

22. See *infra* Part IV.A (depicting how delinquent girls are often victims of abuse in their homes).

23. See *infra* Part IV.B (describing how delinquent girls face discrimination upon entering the gender-biased juvenile justice system).

24. See *infra* Part IV.C (explaining that the juvenile justice system neglects the needs of detained delinquent girls).

solutions for girl offenders. Part I of this Article tells Becca's story. Part II provides a historical perspective on juvenile courts and the Juvenile Justice Act. Part III explains the Becca Bill. Part IV explores the 'triple-victimization' of girl runaways: at home; at arrest and processing; and in rehabilitation programs. Part V makes specific recommendations for reforming Washington's laws, juvenile system and treatment programs. This Article concludes that such a revamping must address the particular problems that girls like Becca face. Dealing effectively with troubled youth like Becca requires a complete deinstitutionalization²⁵ of status offenders²⁶ and increased governmental funding for non-profit organizations.

I. Becca's Story

A. Becca's Troubled Youth

In 1984, when Becca was four years old, Dennis and Darlene Hedman adopted Becca into their large family.²⁷ According to the Hedmans, Becca lived happily while in grade school, but became defiant at the age of twelve.²⁸ When Becca grew particularly uncontrollable, the Hedmans placed her in a crisis residential center.²⁹ Becca refused to return home after her stay there.³⁰ Social workers consequently transferred Becca to a group home for girls,³¹ only to have Becca run away from that home.³² The second time she ran away, Becca met two men who exploited her as a

25. Deinstitutionalization refers to a state's decision not to criminalize certain acts committed by juveniles. For a more complete explanation of deinstitutionalization, see *infra* notes 88-92 and accompanying text.

26. Status offenders are juveniles who commit offenses that would not be considered crimes if committed by adults. See *infra* notes 73-74 and accompanying text (explaining the category of status offender).

27. See *Dateline*, *supra* note 1. The Hedmans had one biological child and adopted four foster children, one of whom was Becca. See *id.*

28. See *id.* Becca told the Hedmans that she did not have to live with them. See *id.*

29. See *id.*; see *infra* notes 94, 109-110 and accompanying text (discussing crisis residential centers in Washington).

30. See *Dateline*, *supra* note 1.

31. See *id.* In the group home she lived mainly with older girls. See *id.* According to Mr. Hedman, "[The girls] taught her the fine art of drinking beer, smoking pot, and partying with gang bangers." *Id.*; see also Murakami, *supra* note 7, at A1 (stating that Becca was also introduced to crack cocaine by the older girls in the group home).

32. See *Dateline*, *supra* note 1. Becca ran away from the group home, disappearing for several days at a time. See *id.* The Hedmans claim that there was not enough supervision in the group home. See *id.*

child prostitute.³³ The men abused her so badly she was rushed to an emergency room with cigarette burns across her forehead, two sexually transmitted diseases and symptoms of serious drug addiction.³⁴

Social Services then moved Becca to a foster home where she did well for a time, experiencing some stability and safety.³⁵ Becca's parents and Social Services decided to seek additional help for Becca; they entered her into Daybreak, a drug treatment center.³⁶ Becca ran away from the treatment center several times, ultimately turning to prostitution in downtown Spokane to support herself.³⁷ Becca's life of prostitution and drug addiction eventually led her to the street corner where she met John Metlock, the man who murdered her.³⁸

B. Becca's Parents

The entire time Becca was a runaway, the Hedmans struggled to bring her back home.³⁹ They were frustrated because running away from home was not a crime in Washington.⁴⁰ If a child wanted to run away from home, parents had very little authority to stop her.⁴¹ Throughout the summer and fall of 1993, the police tried to take Becca into custody,⁴² but Becca could not be detained under Washington's runaway law unless she was considered a

33. See *id.* The men used Becca as a child prostitute for almost two months. See *id.*

34. See *id.* Becca was using a vast array of drugs such as cocaine, marijuana, barbiturates and amphetamines. See *id.*

35. See *id.* Diane Schmidt was Becca's foster mother. See *id.* In a *Dateline* interview, Ms. Schmidt said that Becca did well under foster care, attending counseling and mixing well with the other foster girls. See *id.* Ms. Schmidt liked Becca so well that she wanted Becca to stay beyond the 90 days normally allowed. See *id.* Becca was removed from the foster home after a four month stay, and placed in a drug treatment program. See *id.*

36. See *id.* Daybreak is a drug and alcohol center specifically for teens in Spokane, Washington. See *id.* It is an institutional building with dormitories, standing in the middle of 50 acres of pasture. See *id.*; see also Murakami, *supra* note 7, at A1 (reporting that the nearest road is over a mile away, but Becca managed to run away from the center five times).

37. See *Dateline*, *supra* note 1.

38. See *id.*; *supra* notes 1-6 and accompanying text (describing the interaction between Becca and John Metlock that led to her murder).

39. See *Dateline*, *supra* note 1.

40. See WASH. REV. CODE ANN. § 13.32A (West 1994), amended by WASH. REV. CODE ANN. § 13.32 (West Supp. 1997).

41. See WASH. REV. CODE ANN. § 13.32A (West 1994), amended by WASH. REV. CODE ANN. § 13.32 (West Supp. 1997). Parents could not legally restrain or force their children to return home. See *id.*

42. See *Dateline*, *supra* note 1.

danger to herself or others.⁴³ Each time she was released, she returned to the streets.⁴⁴ The Hedmans were convinced that Washington's runaway law made it impossible for them to save Becca's life.⁴⁵

After Becca's brutal murder, the Hedmans joined other angry parents of troubled runaways in proposing legislation that would alter the nature of parental and runaway rights in Washington.⁴⁶ Together, the parents contacted senators and representatives and testified before the Washington State Legislature.⁴⁷ The Hedmans and many others lobbied the legislature to pass a bill that gave parents new rights in controlling their runaway children.⁴⁸ After a year of such lobbying, the Hedmans and their supporters succeeded. In 1995, Governor Mike Lowry signed the Becca Bill into law.⁴⁹

C. Becca's Unacknowledged Abuse

Becca's story includes a dark side that went unacknowledged during passage of the Becca Bill.⁵⁰ Becca's life had many elements common to troubled young female offenders. When Becca was only six months old, she was sexually abused in her biological parents' home.⁵¹ She was removed from her home and placed in foster care with the Hedmans in Tacoma, Washington. The Hedmans subse-

43. See *supra* notes 40-41 and accompanying text.

44. See *Dateline*, *supra* note 1.

45. See *id.* Absent a legal basis for the police to hold Becca, the Hedmans did not have a means to keep her off the streets against her will. See *id.*; see also *supra* notes 40-41 and accompanying text (citing WASH. REV. CODE § 13.32A).

46. See *CBS Evening News: Washington State Passes Becca Bill to Combat Runaway Problems* (CBS television broadcast, May 15, 1995) [hereinafter *CBS Evening News*]. The Hedmans vowed that they would change runaway law in memory of Becca. See *id.*

47. See *Dateline*, *supra* note 1. The Hedmans and other parents of murdered runaways were major forces in passing the Bill. See *id.*

48. See generally *id.* (reporting passage of the Becca Bill and the Hedmans' role in lobbying for its passage); *infra* Part III (discussing the Becca Bill and the changes it made to Washington's juvenile law).

49. See *CBS Evening News*, *supra* note 46.

50. See *Dateline*, *supra* note 1. Lynn Everson, who works at an outreach center in Spokane, met and befriended Becca. See *id.* When speaking about Becca's life, Ms. Everson suggested that the whole picture needs to be considered: "I think the only way that Rebecca's death will help anyone is if we're able to look at what happened to her very clearly to be able to see what her life was like and why she ran." *Id.*

51. See Murakami, *supra* note 7, at A1. Abuse is a common part of female delinquents' history. See *id.*; Part IV.A (discussing the prevalence of abuse in the histories of female juvenile offenders).

quently adopted her.⁵² Becca experienced sexual abuse again when she was five years old, this time by her older adopted brother in the Hedman family.⁵³ Despite the trauma Becca suffered as a result of the sexual abuse, the Hedmans claim that it had no influence on Becca's later rebellious behavior.⁵⁴

Others do not discount the effects that sexual abuse may have had on Becca's life. Terry Burns, the principal at Becca's school, regularly barred Becca from recess because her sexual behavior with boys was so disturbing.⁵⁵ Burns feared she might get herself into trouble, possibly even pregnant.⁵⁶ Amanda Staples, Becca's best friend, recalled that Becca would often cry when talking about the sexual abuse she had experienced and about her fears that no one loved her.⁵⁷ Becca's fifth grade teacher⁵⁸ worried about Becca's withdrawn and odd behavior.⁵⁹ To these people Becca was not a happy girl suddenly gone astray. To them, Becca seemed deeply troubled long before she ran away from home.

II. A Historical Perspective on the Juvenile Justice System

In order to understand the Washington juvenile justice system and the problems that girls face within it, the development of

52. See Murakami, *supra* note 7, at A1.

53. See *id.* (reporting that after Becca's adopted brother had sexually abused her, he was sent away to live with another family); see also *CBS Evening News*, *supra* note 46 (reporting the sexual abuse Becca experienced).

54. See *Dateline*, *supra* note 1. When asked about whether knowledge of the sexual abuse was integral to understanding what happened to Becca later, Mr. Hedman replied: "No. I don't think so. Do you? I think that there was . . . a seven-year span between the time that she was abused and the time that she decided that she didn't want to live here anymore." *Id.* Becca and the entire family went through counseling after the incident of abuse. See Murakami, *supra* note 7, at A1.

55. See *Dateline*, *supra* note 1.

56. See *id.*

57. See *id.* In a *Dateline* interview, Amanda Staples said: "If [Becca's adopted brother] had never done that to her and she had never been sexually abused, then she would have been alive today." *Id.*

58. See *id.* Becca's fifth grade teacher, Caprice Petuano, said that she gave Becca a little extra help after school because she was worried about her. See *id.* The teacher said: "She was very lonely, seemed to be very scared and very closed off, didn't let a lot of people in." *Id.* To Ms. Petuano, Becca did not seem to have many friends and behaved oddly at times, such as coming to school in shorts and a T-shirt in the middle of winter. See *id.*

59. Becca's withdrawn and odd behavior is not unusual for abused girls. See Jane C. Ollenburger & Kathy Trihey, *Juvenile Justice: Differential Processing and the Illusion of Equality*, 13 *HAMLIN J. PUB. L. & POLY* 229, 238 (1992) (explaining that symptoms of sexual abuse may be manifested in many ways, including depression, fear, increased sexual behavior, disorderly conduct, anxiety and running away from home).

the United States' juvenile justice system must first be considered. Early American society imposed the same retribution and punishment on juvenile offenders as it did on adults.⁶⁰ States often tried juveniles in adult courts and confined them in adult jails.⁶¹

A. Development of the Juvenile Court System

At the turn of the twentieth century, the United States experienced an increase in industrialization, urbanization, and immigration, with a contemporaneous growth in social problems. The Progressive reform movement developed in response to this growth of social problems.⁶² Many Progressive reforms focused on children by instituting child labor and compulsory school attendance laws, welfare programs⁶³ and the juvenile court system.⁶⁴

State and local governments based their power to control deviant or dependent children on the principle of *parens patriae*,⁶⁵ which enables juvenile courts to act in lieu of parents unable or unwilling to take care of or discipline their children.⁶⁶ Theoretically acting in a manner similar to a parent, the juvenile court system considered each child's offense and needs individually, as opposed to implementing the objective standards and punishments adults received.⁶⁷ The Progressives saw themselves as child-

60. See generally Charles M. McGee, *Measured Steps Toward Clarity and Balance in the Juvenile Justice System*, 40 JUV. & FAM. CT. J. 1 (1989) (recounting how juveniles were not thought to need different treatment than adults in the early American criminal system).

61. See *id.* at 4 (discussing early American judicial discipline of juveniles).

62. See generally Barry Feld, *The Transformation of the Juvenile Court*, 75 MINN. L. REV. 691 (1991) (describing the development of the Progressive social reform movement in the United States).

63. See *id.* at 694 (reflecting on the changing view of childhood).

64. The first juvenile court in the United States was established in Chicago in 1899. See Robert W. Sweet, *Deinstitutionalization of Status Offenders: In Perspective*, 18 PEPP. L. REV. 389, 394 (1991).

65. See Jan C. Costello & Nancy L. Worthington, *Incarcerating Status Offenders: Attempts to Circumvent the Juvenile Justice and Delinquency Prevention Act*, 16 HARV. C.R.-C.L. L. REV. 41, 43 n.3 (1981). *Parens patriae* literally means "parent of the country" and is based on the old English concept by which the king acted as the legal guardian for orphans who had inherited property. See *id.*

66. See Neil Cogan, *Juvenile Law, Before and After the Entrance of "Parens Patriae"*, 22 S.C. L. REV. 147, 149 (1970). The Progressives expanded the concept of *parens patriae* to include the total care and custody of a youth in trouble. See *id.*; see generally Douglas Rendleman, *Parens Patriae: From Chancery to the Juvenile Court*, 23 S.C. L. REV. 205 (1971) (discussing the importation of the doctrine of *parens patriae* to the American colonies and its evolution to the present).

67. See MONRAD PAULSEN, PROBLEMS OF JUVENILE COURTS AND THE RIGHTS OF CHILDREN 4 (1975).

savers and their courts as benign, non-punitive and therapeutic.⁶⁸ Flexible court procedures allowed judges to determine not only what the child had done wrong, but also what underlying mental, physical, familial or moral problems had caused the child's deviant behavior.⁶⁹ Once a judge uncovered the child's problems, he or she could address the child's "real" needs, rather than simply punish the child for his or her misbehavior.⁷⁰

By contrast, most modern juvenile courts designate three types of youth who fall under juvenile court jurisdiction. The first and most serious offender, the juvenile delinquent, is a youth who has committed an offense deemed illegal regardless of the offender's age.⁷¹ The second classification includes the neglected or abused child, who is a juvenile needing protection from an unfit guardian.⁷² The third category is the status offender, who is a child who has committed an offense that would not be illegal if it were committed by an adult.⁷³ This category of offense falls within the juvenile court's jurisdiction because of the offender's "status" as a child. The most common status offenses include truancy and running away from home.⁷⁴

While juveniles of the first category, delinquents, are protected by some due process rights,⁷⁵ juveniles of the third category, status offenders, have very few of those protections.⁷⁶ This distinc-

68. See Feld, *supra* note 62, at 695.

69. See Jeffrey K. Day, *Juvenile Justice in Washington: A Punitive System in Need of Rehabilitation*, 16 U. PUGET SOUND L. REV. 399, 402 (1992) (summarizing the history of the juvenile justice system in the United States).

70. See Feld, *supra* note 62, at 695.

71. See Ryna H. Bomar, *The Incarceration of the Status Offender*, 18 MEM. ST. U. L. REV. 713, 720 (1988).

72. See *id.*

73. See *id.*; see also Costello & Worthington, *supra* note 65, at 42-46 (defining status offenses and describing how the category is currently applied in the United States).

74. See Cheryl Dalby, *Gender Bias Toward Status Offenders: A Paternalistic Agenda Carried Out Through the JJDP*, 12 LAW & INEQ. J. 429, 437 (1994).

75. See *In re Gault*, 387 U.S. 1 (1967). The Supreme Court acknowledged that juvenile courts punish more than they rehabilitate and consequently granted juvenile delinquents some procedural due process rights. See *id.*

76. See *id.* at 55-57. The Supreme Court determined that a constitutional right of due process applied to juveniles if the proceeding was to adjudicate delinquency and if the delinquency were such that it could result in incarceration in a state institution. See *id.* at 49. Because the situation of status offenders does not fulfill the first requirement laid out by the Court in *In re Gault*, status offenders have none of the due process rights granted to delinquents. See Dalby, *supra* note 74, at 438-40 (explaining that since a status offender is not charged with delinquency, an act which would constitute a crime if committed by an adult, the government does not provide status offenders with the due process rights afforded to juvenile delinquents); see generally Erin M. Smith, *In a Child's Best Interest: Ju-*

tion results from the juvenile court's role of rehabilitating rather than punishing status offenders.⁷⁷ Widespread evidence suggests, however, that judges frequently abuse the discretion they have over status offenders.⁷⁸ In addition to having very few due process rights, status offenders' cases are often adjudicated in such a way as to deny their freedom.⁷⁹ Status offenders are therefore often deprived of liberty without due process.⁸⁰

Criticism of the treatment of status offenders⁸¹ eventually led to federal legislative response in the form of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA).⁸² Among other things, the JJDPA required that states receiving federal delinquency prevention funds divert and deinstitutionalize their status offenders.⁸³

B. Washington State and the Juvenile Justice Act of 1977

Just as the national government arrived at the conclusion that its juvenile justice system needed major changes, so did Washington.⁸⁴ Washington State's Juvenile Justice Act of 1977

venile Status Offenders Deserve Procedural Due Process, 10 LAW & INEQ. J. 253 (1992) (discussing the lack of procedural due process rights for status offenders).

77. See *supra* notes 65-70 and accompanying text.

78. See generally Sweet, *supra* note 64, at 396 (observing that juveniles punished for immoral behavior, a status offense, were often punished absent a trial).

79. See Dalby, *supra* note 74, at 438-40. Dalby uses *In re Spaulding*, 322 A. 2d 246 (Md. 1975), as an example of how status offenders can be denied rights and be denied their liberty as well. See *id.* at 438. The female juvenile in *In re Spaulding* was denied her Fifth Amendment right against self-incrimination and her liberty when ordered to live in a foster home against her wishes. See *id.* "In one sense, status offenders are treated like adults in that they can be deprived of their liberty as a form of punishment. At the same time, they are treated like children in that they are denied due process rights." *Id.* at 440.

80. See *id.*

81. Another criticism of status offense charges is that the status offender category is used in a discriminatory manner against girl offenders. See *infra* note 168 and accompanying text (describing the ways in which the status offender category is used discriminatorily against girls).

82. Juvenile Justice and Delinquency Prevention Act of 1974, Pub.L. No. 93-415, 88 Stat. 2750 (codified as amended at 42 U.S.C. §§ 5601 to 5780 (1994)).

83. See Dalby, *supra* note 74, at 440. The original JJDPA required that for a state to receive formula grants, it needed to design and submit a plan ensuring that within two years no juveniles charged with status offenses would be placed in juvenile detention or correctional facilities. See *id.* The 1974 Act provided significant financial incentives for all states, including Washington, to remove status offenders from the traditional court system to a more community-based system. See Day, *supra* note 69, at 407.

84. See generally Day, *supra* note 69, at 406-09 (discussing the history of Washington's juvenile justice system and the motivation for a legislative change in the system in the mid-1970s).

(Act)⁸⁵ moved the state's juvenile justice system away from the *parens patriae* doctrine and toward proportional punishments, protection of the community and offender accountability, while still providing for treating the needs of the juvenile offender.⁸⁶ The Act created a sentencing grid and established specific parameters of punishment for all juvenile offenders.⁸⁷ Under the Act's guidelines, judges retained very little sentencing discretion.⁸⁸ As a result, Washington's juvenile justice system became one of the most structured in the country.⁸⁹

85. Juvenile Justice Act of 1977, 1977 Wash Laws ch. 291 (codified as amended at WASH. REV. CODE ANN. § 13.40 (West 1994), amended by WASH. REV. CODE ANN. § 13.40 (West Supp. 1997).

86. See WASH. REV. CODE ANN. § 13.40.010 (West 1994), amended by WASH. REV. CODE ANN. § 13.40.010 (West Supp. 1997). The purpose of the Act is to:

- (a) Protect the citizenry from criminal behavior;
- (b) Provide for determining whether accused juveniles have committed offenses as defined by this chapter;
- (c) Make the juvenile offender accountable for his or her criminal behavior;
- (d) Provide for punishment commensurate with the age, crime, and criminal history of the juvenile offender;
- (e) Provide due process for juveniles alleged to have committed an offense;
- (f) Provide necessary treatment, supervision, and custody for juvenile offenders;

....

- (j) Provide for a clear policy to determine what types of offenders shall receive punishment, treatment, or both, and to determine the jurisdictional limitations of the courts, institutions and community services.

Id. It is significant that the purpose statement lists punishment before rehabilitation and treatment. In 1992, a provision was added to the Act stating that all purposes of the Act were to be given equal weight. However, 80% of the purpose of the Act relates to punishment and only 20% relates to treatment. See Renée M. Willette, *A Juvenile's Right Against Compelled Self-Incrimination at Predisposition Proceedings*, 69 WASH. L. REV. 305, 309 (1994).

87. See ROXANNE LIEB ET AL., WASHINGTON STATE INST. FOR PUB. POL'Y, A SUMMARY OF STATE TRENDS IN JUVENILE JUSTICE 4 (1994) [hereinafter SUMMARY OF STATE TRENDS]; see also Day, *supra* note 69, at 410-16 (explaining in detail how the sentencing grid is used).

88. See Day, *supra* note 69, at 415. The judge only has discretion to go outside the sentencing guidelines if the judge determines that the guidelines' disposition could cause "manifest injustice." *Id.* at 415. Manifest injustice occurs when the disposition would impose an excessive penalty on the juvenile offender or cause a serious and clear danger to society. See *id.*

89. See SUMMARY OF STATE TRENDS, *supra* note 87, at 4. Approximately one-third of the states employ some variation of a structured approach to sentencing, using one or more of the following: mandatory minimums, serious offender laws, determinate sentencing laws and administrative guidelines. See *id.* Washington's juvenile justice system is not only the most structured system in the country, but it also places the greatest amount of control with the state legislature in determining penalties for juveniles. See *id.*

The Act further limited the juvenile court's discretion by excluding the majority of status offenders from the reach of juvenile court.⁹⁰ This process is called the deinstitutionalization of status offenses.⁹¹ The Washington State legislature determined that status offending youths and their families should be given access to state services on a voluntary basis and should not be forced to utilize them.⁹² The legislature consequently authorized an officer to take runaways into custody only if the officer believed the child to be in dangerous circumstances.⁹³ Once the runaway was in custody, the officer had authority to take the juvenile to her home, place the juvenile with a responsible adult, or place the child in a temporary semi-secure facility known as a crisis residential center (CRC) for a restricted number of days.⁹⁴

III. The Becca Bill

Washington deinstitutionalized status offenses until 1995. In the early 1990s, the public became outraged by several shocking murders of runaway children, including that of Becca.⁹⁵ The parents of these murdered children, including the Hedmans, were frustrated by the fact that police could only detain their runaway children for a short time in unsecured facilities.⁹⁶ With public support, these parents called for a review of the state's runaways laws.⁹⁷ In 1994, the Special Legislative Juvenile Justice Task

90. See generally WASH. REV. CODE ANN. § 13.32A (West 1994), amended by WASH. REV. CODE ANN. § 13.32 (West Supp. 1997) (providing a legal process for parents with at-risk youths).

91. For further explanation of the effects of deinstitutionalization on delinquent girls, see *infra* Part IV.B.

92. See SUMMARY OF STATE TRENDS, *supra* note 87, at 20.

93. See *id.*; WASH. REV. CODE ANN. § 13.32A (1994), amended by WASH. REV. CODE ANN. § 13.32 (West 1997) (defining the circumstances under which a runaway could be taken into custody).

94. See WASH. REV. CODE ANN. § 13.32A (West 1994), amended by WASH. REV. CODE ANN. § 13.32 (West Supp. 1997). Originally, the statute allowed a maximum CRC stay of only 72 hours, but that time period proved to be too short to be of any benefit, so the legislature later extended the maximum stay to five days. See *id.* It is important to keep in mind that at that time CRCs were only semi-secure, so juveniles could run away again if they chose to do so. See *id.* The CRCs were not intended to be locked, secured facilities. See *id.*

95. See *supra* notes 46-48 and accompanying text (describing the people who had a major impact in rallying public support and getting the legislation passed).

96. See Peyton Whitely, *Parents Want Law Changed So Runaways Can Be Found*, SEATTLE TIMES, April 2, 1995, at B1 (documenting the frustrations that the parents of runaways faced before legislative changes); *supra* Part II.B (discussing the treatment of runaways under the Juvenile Justice Act of 1977).

97. See *supra* notes 47-49 and accompanying text (noting the swell of public support for a review of Washington's policies on runaways).

Force and the Governor's Council on Families, Youth and Justice recommended new policies for runaways.⁹⁸ Following the reviews, the 1995 Washington State Legislature enacted the Becca Bill. The Bill governs runaways, at-risk youth, truancy, crisis residential centers, mental health and substance abuse treatment programs for juveniles, and other issues affecting non-offending youth and their families.⁹⁹

The Becca Bill significantly altered the rights of status offenders in Washington. The "intent" section of the Bill states that "parents should have the right to exercise control over their children."¹⁰⁰ This language represents a change in focus from a juvenile justice policy based on the rights of juveniles to one based on the rights of parents and the system to control juveniles. As the Bill's statement of purpose indicates, the legislature's main goal was to "give tools to parents, courts, and law enforcement to keep families together and reunite them whenever possible."¹⁰¹ This comprehensive legislation added controls over youth who run away from home or otherwise are at risk of living beyond the control of their parents by: 1) authorizing law enforcement to take runaway youth to a secure facility, preferably a secured CRC authorized to house the youth for up to five days;¹⁰² 2) creating "multidisciplinary teams" (MDTs) to provide assistance to troubled juveniles;¹⁰³ 3) revising the court process to compel minor children to receive needed services;¹⁰⁴ 4) giving parents the power to con-

98. See LEE ANN MILLER & NANCY KRIER, ATTORNEY GENERAL'S OFFICE, AT-RISK/RUNAWAY YOUTH ACT: "THE BECCA BILL" 1 (1995) [hereinafter RUNAWAY YOUTH ACT].

99. See *id.* Most of the Becca Bill's provisions amend the "Family Reconciliation Act." See WASH. REV. CODE ANN. § 13.32A (West 1994), amended by WASH. REV. CODE ANN. § 13.32 (West Supp. 1997). The Becca Bill also amends title 70, creating rigid enforcement of truancy laws. See WASH. REV. CODE ANN. § 70.96A.095 (West Supp. 1997). It also amends title 28A of the Act, providing for the involuntary commitment of minors to mental health, drug and alcohol treatment centers. See *id.* § 28A.225.030 (West Supp. 1997).

100. WASH. REV. CODE ANN. § 13.32A.010 (West Supp. 1997).

101. *Id.*

102. See *id.* § 13.32A.130(1); *infra* note 109 and accompanying text (discussing the role of the CRCs).

103. See WASH. REV. CODE ANN. § 13.32A.030; *infra* notes 111-115 and accompanying text (explaining the creation and role of the MDTs).

104. See WASH. REV. CODE ANN. § 13.32A.030(4); *infra* notes 116-129 and accompanying text (discussing the provision more fully).

sent to treatment for their minor children;¹⁰⁵ and 5) enforcing truancy laws.¹⁰⁶

The Becca Bill further altered the status quo in Washington by requiring law enforcement officers to deliver a runaway child under custody to the juvenile's home or to the juvenile's parent's place of employment.¹⁰⁷ Parents have the option of directing the officer to transport the child to the home of a responsible adult or to a youth shelter.¹⁰⁸ If the juvenile is afraid to go home, if it is not practical to transport the juvenile to the parent's home or work, or if there is no family or guardian available to receive the juvenile, the officer must take the juvenile to a semi-secure or secure CRC.¹⁰⁹ CRCs are also used to contain juveniles found to be in contempt of court.¹¹⁰

105. See WASH. REV. CODE ANN. § 70.96A.095; *infra* notes 124-127 and accompanying text (discussing the new parental consent provisions).

106. See WASH. REV. CODE ANN. § 28A.225.030 (setting forth the new truancy laws).

107. See *id.* § 13.32A.060.

108. See *id.* The officer releasing a child to a relative, responsible adult or youth shelter is required to inform the child and the person accepting the child about community services available to the juvenile. See *id.*

109. See *id.* The Becca Bill requires the establishment of secure CRCs. See *id.* A facility is considered secure if it has locked doors or windows or a secure perimeter, designed to prevent a juvenile from leaving without permission from the facility staff. See *id.* § 13.32A.030(14). Before the Becca Bill, CRCs were all semi-secure, meaning that the facility was designed, through staffing ratios and regulation of the juvenile's movement, to keep the juvenile at the facility. See *id.* § 13.32A.030(15) (West Supp. 1997). The Becca Bill requires both secure and semi-secure CRCs to be available, but they will not necessarily both exist in every community. See RUNAWAY YOUTH ACT, *supra* note 98, at 2.

A juvenile admitted to a secure CRC must remain there for at least 24 hours, but not more than five consecutive days after admission. See WASH. REV. CODE ANN. § 13.32A.130 (West Supp. 1997). A child's parents may remove the child from the secure CRC during the five-day time period unless CRC staff have reasonable cause to believe that the child ran away from home due to abuse or neglect. See *id.*

The administrator of the secure CRC is required within 24 hours to determine whether the juvenile may be safely admitted to a semi-secure CRC. See *id.* The administrator may transfer the child to the semi-secure facility if he or she believes that the child is likely to remain at the semi-secure facility. See *id.*

110. See *id.* § 13.32A.250 (West Supp. 1997). If an officer takes a juvenile into custody based upon the juvenile court's finding of probable cause to believe that a juvenile has violated a court placement order (run away from a court placement) or that the court has issued an order for police pick-up of the juvenile, the officer is directed to take the child to a juvenile detention facility or to a secure CRC. See *id.*; see also 1995 Wash. Laws 312 §§ 7(2), 26(3) (providing for the incarceration of runaways under the above related circumstances); *infra* note 180 (describing the related practice of "bootstrapping").

The MDTs created by the Becca Bill provide assistance and support to at-risk juveniles and their families.¹¹¹ MDTs are comprised of a parent, case worker, other necessary persons¹¹² and, when appropriate, persons from mental health or substance abuse disciplines.¹¹³ A CRC administrator may assemble a MDT at the request of the juvenile or parent, and must assemble one when the administrator reasonably believes that the child is in need of services and the parent is unable or unwilling to maintain the family structure.¹¹⁴ MDTs have the authority to evaluate the juvenile and family members, and to develop and assist in obtaining a plan of services for the juvenile, work with the family to reconcile differences, make referrals to chemical dependency and mental health specialists or recommend no further intervention.¹¹⁵

The Becca Bill also has provisions for children in need of services (CHINS)¹¹⁶ and at-risk youth (ARY).¹¹⁷ These provisions

111. See 1995 Wash. Laws 312 § 3(9).

112. MDTs may also include educators, law enforcement personnel, probation officers, employers, church persons, tribal members and staff from appropriate state agencies. See *id.* §§ 3(9), 13(2).

113. See *id.* § 3(9).

114. See *id.* § 13(1); see also RUNAWAY YOUTH ACT, *supra* note 98, at 2 (explaining the details of assembling a MDT).

115. See 1995 Wash. Laws 312 § 13(6). The plan of services is to be aimed at family reconciliation, reunification, and avoidance of out-of-home placement of the child. See *id.*; see also *id.* § 16(1); *id.* § 14 (describing the process of creating a MDT and the functions it is allowed to perform).

116. See WASH. REV. CODE ANN. § 13.32A.030(4) (West Supp. 1997). The Becca Bill defines a child in need of services (CHINS) as an unemancipated child under age 18 who:

- (a) Is beyond parental control such that his or her behavior endangers the health, safety, or welfare of the child or any other person; or
- (b) Has been reported to law enforcement as a runaway for more than 24 consecutive hours or reported as absent from a court ordered placement on two or more occasions and has a serious substance abuse problem or has exhibited behaviors that create a risk of harm to the child or others; or
- (c) Is in need of necessary services, lacks access or has declined to use the services, and whose parents have made unsuccessful efforts to maintain the family structure or whose parents are unwilling or unable to continue efforts to maintain the family structure.

Id.

117. See *id.* § 13.32A.030(2). An at-risk youth (ARY) is defined as a juvenile who:

- (a) Is absent from home for at least seventy-two consecutive hours without consent of his or her parent;
- (b) Is beyond the control of his or her parent such that the child's behavior endangers the health, safety, or welfare of the child or any person; or
- (c) Has a substance abuse problem for which there are no pending criminal charges related to the substance abuse.

authorize court approval of a juvenile's residential placement outside of the home when the family conflict is so severe that it cannot be resolved by the provision of services while the juvenile remains at home.¹¹⁸ Both CHINS and ARY petitions are intended for use when voluntary reconciliation of a child with her family is not possible.¹¹⁹ The child, the child's parents, or the Department of Social and Health Services may file a CHINS petition, while only a parent may file an ARY petition.¹²⁰

One section of the Becca Bill provides that no court may decline to review a properly-filed ARY or CHINS petition.¹²¹ This gives extra force to the CHINS and ARY provisions. When ARY petitions were created in 1990, most counties refused to hear them "because of scarce resources and crowded courts."¹²² Under the Becca Bill, every CHINS or ARY petition must be heard by the court,¹²³ likely resulting in more juveniles found to be children in need of services or at-risk youth. This will increase the number of juveniles under the control of the juvenile justice system.

The Becca Bill also provides that parents may place their child in a chemical dependency treatment program.¹²⁴ The juvenile's consent is not necessary.¹²⁵ The child's consent for mental health treatment is similarly unnecessary if the parent requests evaluation of and treatment for the child.¹²⁶ These involuntary commitment portions of the Bill are constitutionally questionable and may be revised.¹²⁷

Id.; see also Ivey, *supra* note 20, at 140-41 (describing in depth the fact-finding and dispositional hearings the court must hold after the petition is filed).

118. See RUNAWAY YOUTH ACT, *supra* note 98, at 5.

119. See Ivey, *supra* note 20, at 139.

120. See WASH. REV. CODE ANN. §§ 13.32A.140, .150, .191. The amount of time a child may remain in out-of-home placement is limited. See RUNAWAY YOUTH ACT, *supra* note 98, at 6. The court must review the juvenile's case within three months after entry of a 90-day placement order; and the court must order that the child return home if the court has reason to believe that the parents have made reasonable efforts to resolve the family's conflict and that the juvenile's refusal to return home is capricious. See *id.* One hundred eighty days after the three-month review hearing, the placement must be discontinued. See *id.* At this point, the court typically will order the child to return home. See *id.*

121. See WASH. REV. CODE ANN. § 13.32A.205.

122. Ivey, *supra* note 20, at 141 (citing an interview with Deborah Lippold, an attorney for Pierce County, Washington).

123. See WASH. REV. CODE ANN. § 13.32A.205.

124. See *id.* § 70.96A.095.

125. See *id.*

126. See *id.*

127. See *State v. CPC Fairfax Hosp.*, 129 Wash. 2d 439, 918 P.2d 497 (1996) (suggesting that it is unconstitutional to involuntarily hold a juvenile in a secure mental health facility without due process, which includes access to an attorney). Richard Roger, an aide to the chairman of Human Services of the Washington

Originally, even more severe provisions for restricting juveniles existed in the Becca Bill. However, Governor Lowry vetoed the harshest sections of the Bill.¹²⁸ One vetoed provision would have allowed the juvenile justice system to hold a runaway in secured facilities for up to six months.¹²⁹

IV. The Triple Victimization of Girl Offenders

The typical female delinquent or status offender has been sexually and/or physically abused, has grown up in the midst of serious family conflict, lives in the inner city, has been placed in foster care at some point and lacks the education and work skills necessary to support herself.¹³⁰ She could be of any race or races.¹³¹ Often, when she most needs help from her parents, officials or the juvenile justice system, they only victimize her more.¹³²

A. Victims of Abuse and Double Standards: Girls at Home

The prevalence of sexual and physical abuse is one disturbing characteristic of girls within the juvenile justice system. In the general juvenile population, females account for three-quarters of sexual abuse victims.¹³³ Female juvenile offenders report far higher rates of abuse than do male juvenile delinquents, and they are much more likely than males to have been abused by a family member.¹³⁴ Those who work with girl offenders report that rates

State Senate, states that there is an attempt to rewrite this section of the Becca Bill that would provide for holding a juvenile in a secure mental health facility without his or her consent. Telephone interview with Richard Roger, Legislative Aid for Washington State Senate Human Services (Oct. 24, 1996).

128. Governor Lowry vetoed sections of the Bill that allowed a "habitual runaway" to be detained in a secure facility for up to six months. See H.R. 1417, 54th Leg., Reg. Sess. § 12 (Wash. 1995). He also vetoed several other portions pertaining to runaways, truants and parental notification procedures. See *id.*; Ivey, *supra* note 20, at 141-43 (listing and describing the provisions of the original Bill which were vetoed by the Governor).

129. See Wash. H.R. 1417 § 12.

130. See Ilene R. Bergsmann, *Adolescent Female Offenders: Program Parity is Essential To Meeting Their Needs*, CORRECTIONS TODAY, Aug. 1989, at 98. Most female offenders are also two to four years behind their peers academically. See *id.*

131. See *id.* Bergsmann notes that half of young female offenders are African American or Hispanic. *Id.*

132. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 90-92. Chesney-Lind & Shelden explain that abused delinquent girls often have two choices: stay in an abusive home or "become imbedded in the juvenile justice system, which has few alternatives other than incarceration." *Id.* at 91.

133. See *id.*

134. See Patricia Chamberlain & John B. Reid, *Differences in Risk Factors and Adjustment for Male and Female Delinquents in Treatment Foster Care*, 3 J. CHILD & FAM. STUD. 23, 24-25 (1994) (reporting studies documenting that among run-

of sexual and physical abuse range from "a low of 40 percent to a high of 73 percent."¹³⁵ Likewise, female delinquents experience sexual abuse at a significantly higher rate than girls not within the juvenile justice system.¹³⁶ It is clear that being a victim of sexual abuse is an important risk factor for girls becoming delinquents or status offenders.¹³⁷

The same rate of abuse exists among girl offenders in Washington. In 1977, a study found that over 40% of female juveniles in Washington's detention centers were victims of physical and/or sexual abuse.¹³⁸ More recently, Shauna Hormann, program director at the Ecco Glen Children's Center, a secure holding facility for Washington's middle-range and serious female offenders, estimates that 95% of the girls she works with have been sexually abused.¹³⁹ When physical abuse is added, the percent of those abused climbs near 100%.¹⁴⁰ Hormann also estimates that the in-

aways in shelters and in the juvenile justice system, the rate of physical and/or sexual abuse for girls was 70-80%, compared with 32% for boys); see also Arlene McCormack et al., *Runaway Youths and Sexual Victimization: Gender Differences in an Adolescent Runaway Population*, 10 CHILD ABUSE AND NEGLECT 387, 390-92 (1986) (showing that male runaways did not attribute their behavior to abuse to the degree that girls did).

There is evidence that the rate of abuse is even higher among black female offenders. See Cathy S. Widom, *Child Abuse, Neglect, and Violent Criminal Behavior*, 27 CRIMINOLOGY 251, 263 (1989). Widom's research found a relationship between child abuse or neglect and female adult arrests for property, drug and public order offenses. See *id.* at 251. She also found significant differences between the rates of abuse of black and white women. See *id.* at 263. A higher proportion of black women arrested as adults were abused as children (28%) than were white female adult offenders (17%). See *id.* This can be compared with the control groups of black and white women non-offenders, who had rates of 19% and 11%, respectively. See *id.*

135. CHESNEY-LIND & SHELDEN, *supra* note 16, at 90. Of the 10 girls extensively interviewed in Chesney-Lind's study, all had experienced some form of abuse. See *id.*

136. See Ollenburger & Trihey, *supra* note 59, at 236-38 (describing a 1990 Minnesota survey of public school students and correctional institution residents, showing that 48% of girls in Minnesota's correction and detention centers suffered from sexual abuse as compared with 18% of the general population of girls that age); see generally Anne Bowen Poulin, *Female Delinquents: Defining Their Place in the Justice System*, 1996 WIS. L. REV. 541, 559 (describing several studies on the prevalence of both family conflict and sexual abuse in the homes of female juvenile offenders).

137. See Ollenburger & Trihey, *supra* note 59, at 236. Girls are more likely to be at risk from problems relating to physical or sexual abuse, pregnancy and emotional problems, while major risk factors for boys are alcohol and drug use. See *id.*

138. See Meda Chesney-Lind, *Girls and Status Offenses: Is Juvenile Justice Still Sexist?* 20 CRIM. JUST. ABSTRACT 144, 147 (1988).

139. Telephone interview with Shauna Hormann, Program Director of Ecco Glen Children's Center in Snoqualmie, Wash. (Oct. 25, 1996) [hereinafter Telephone Interview with Hormann].

140. See *id.*

cidence of abuse is significantly lower among boys in the same institution.¹⁴¹

Girls who run away to escape their abusive home environments often face other unexpected problems.¹⁴² Having run away from parental support, girls are regularly forced into crime to survive.¹⁴³ Statutes requiring schools or employers to report runaways' whereabouts force girls into hiding.¹⁴⁴ These girls cannot go back to school or get a job to support themselves for fear of being detected; a criminal life is their only recourse.¹⁴⁵ Many rely on theft or prostitution to survive.¹⁴⁶ Sometimes female runaways turn to drugs to cope with the pain of their current life and the memory of the life from which they ran away.¹⁴⁷

Many girls involved in the juvenile justice process were reported by parents or relatives rather than arrested by law enforcement officials. Parents and school officials often use the juvenile justice system to control difficult young girls.¹⁴⁸ Generally,

141. *See id.*

142. *See* Chesney-Lind, *supra* note 138, at 147; *see also* Bergsmann, *supra* note 16, at 73 (describing the close connection between sexual and/or physical abuse and running away from home); Kathleen Daly, *Women's Pathways to Felony Court: Feminist Theories of Lawbreaking and Problems of Representation*, 2 S. CAL. REV. L. & WOMEN'S STUD. 11, 45 (1992) (explaining that when girls or young women are abused, they not only run away from home and head for the streets, but they go to these streets emotionally crippled, which can lead to other psychological problems such as addiction to alcohol and drugs, or violent and abusive attitudes toward others).

143. *See* CHESNEY-LIND & SHELDEN, *supra* note 16, at 91.

144. *See id.*

145. *See id.* Many girls who are on the run from abusive homes are pushed into an impoverished, crime-filled life on the streets by the very statutes that are designed to protect them. *See id.*

146. *See id.* Chesney-Lind and Shelden describe studies showing that a majority of runaway girls steal food, clothing and money. *Id.* at 34-44. They also state that some of these girls exchange sexual contact for necessities. *See id.* at 37-42. "[R]unning away from home for any length of time often leads girls into prostitution." *Id.* at 37.

147. *See* Daly, *supra* note 142, at 13-14 (describing how life on the street can often lead to drug use and addiction); *see also* McCormack et al., *supra* note 134, at 392-93 (finding that sexually abused female runaways were more likely than their non-abused counterparts to engage in delinquent behavior such as theft or drug use).

148. *See* Bergsmann, *supra* note 16, at 74. Bergsmann explains that parents are often looking to "use the courts as a route to mending family feuds or as a last resort for addressing problems with promiscuous and sexually active daughters." *Id.* Some scholars believe that parents report their daughters to the juvenile justice system when their daughters become sexually active. *See* Dalby, *supra* note 74, at 447 ("Fearing that they will lose control of their daughter's sexuality, parents turn to the court for assistance in controlling their daughter's sexual behavior.").

girls are expected to conform to traditional standards of passivity, chastity and obedience.¹⁴⁹ Boys, by contrast, are expected to be boisterous, mischievous and sexually aggressive.¹⁵⁰ This vastly different set of gender expectations may explain why studies show that parents are more likely to report their daughters than their sons for status offenses such as promiscuity or uncontrollability.¹⁵¹

One commentator notes that "[o]ne of the most problematic aspects of the juvenile justice system is its failure to distinguish offenders from victims."¹⁵² In their recent book on girl offenders, Meda Chesney-Lind and Randall Shelden explain that "abusers have traditionally been able to utilize the uncritical commitment of the juvenile justice system to parental authority to force girls to obey them."¹⁵³ Considering the prevalence of abuse experienced by female status offenders, and their frequent punishment for reacting to this abuse, the juvenile justice system in effect criminalizes girls' survival strategies by sending them back into the perpetrator's care.¹⁵⁴

Becca is a typical example of a girl victimized by family members. She was sexually abused at least twice, first by her biological parents and again in her adoptive home.¹⁵⁵ As a result of this abuse, Becca acted out sexually,¹⁵⁶ abused drugs¹⁵⁷ and eventually ran away and prostituted herself to survive.¹⁵⁸

149. See Bergsmann, *supra* note 16, at 74.

150. See Meda Chesney-Lind, *Judicial Paternalism and the Female Status Offender*, 23 CRIME & DELINQ. 121, 122 (1977).

151. See Katherine S. Teilmann & Pierre H. Landry, Jr., *Gender Bias in Juvenile Justice*, 18 J. RES. CRIME & DELINQ. 47, 69-76 (1981) (reporting evidence suggesting that parents play the greatest role in bringing about the status offense arrests of girls); see also Bergsmann, *supra* note 130, at 98 (stating that parents are more likely to utilize the justice system when their daughters rather than their sons are engaging in minor delinquent behavior); Bergsmann, *supra* note 16, at 74 (explaining that "[r]arely are the courts employed as a quick fix for sons who exhibit similar sexual behaviors"); Carl E. Pope & William H. Feyerherm, *Gender Bias in Juvenile Court Dispositions*, 6 J. SOC. SERV. RES. 1, 6 (1982) (finding that girls are "substantially more likely to be referred by sources other than law enforcement," and are more than twice as likely to be referred to the justice system by parents than are boys).

152. Rosemary C. Sarri, *Gender Issues in Juvenile Justice*, 29 CRIME & DELINQ. 381, 382 (1983).

153. CHESNEY-LIND & SHELDEN, *supra* note 16, at 91.

154. See *id.*

155. See *supra* notes 51-53 and accompanying text.

156. See *supra* notes 55-58 and accompanying text.

157. See *supra* notes 31, 34-35 and accompanying text.

158. See *supra* notes 32-33, 37-38 and accompanying text.

B. Victims of a Gender-Biased System: Girls and the Process

Current research strongly suggests that the juvenile justice system treats girls differently than boys.¹⁵⁹ While it is difficult to determine specifically which individuals in the system are responsible for this bias,¹⁶⁰ it is clear that laws, police, courts and social services collectively discriminate against delinquent girls.¹⁶¹

Legislative bias against girls dates back at least to the creation of the juvenile justice system in the United States. Early juvenile and family courts were very concerned about any questionable activity by juveniles that might lead to greater problems in adulthood.¹⁶² For girls, this meant an extreme concern for any behavior that defied the traditional docile and virginal ideal.¹⁶³ History shows that almost all girls who appeared before early family courts were charged with "immorality" or "waywardness."¹⁶⁴ The punishments for girls charged with these offenses were much more severe than those for boys.¹⁶⁵ Clearly, controlling female sexuality was one function of the early juvenile courts.¹⁶⁶

159. See Poulin, *supra* note 135, at 555; see also *infra* note 168 and accompanying text (citing research about gender bias in the juvenile justice system).

160. See Donna M. Bishop & Charles E. Frazier, *Criminology: Gender Bias in Juvenile Justice Processing: Implication of the JJDP Act*, 82 J. CRIM. L. 1162, 1167 (1992) (reporting that gender bias in the juvenile justice system may be obscured in many ways).

161. See generally CHESNEY-LIND & SHELDEN, *supra* note 16 (providing a thorough discussion of the special problems that delinquent girls face in our patriarchal society, including a review of the primary literature on girl offenders); Poulin, *supra* note 135 (examining the place of female offenders in the juvenile justice system and suggesting a reevaluation of the treatment girls receive in it).

162. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 107.

163. See *id.* at 109 (stating that early girls' reformatories and training schools "were obsessed with precocious female sexuality and were determined to instruct girls in their proper place").

164. See STEVEN L. SCHLOSSMAN, LOVE & THE AMERICAN DELINQUENT 178 (1977) (stating that "[w]hen girls appeared in juvenile court and were committed to reformatories . . . one factor was always present: sexual promiscuity, real or suspected."); see generally Steven L. Schlossman & Stephanie Wallach, *The Crime of Precocious Sexuality: Female Delinquency in the Progressive Era*, 48 HARV. EDUC. REV. 65 (1978) (showing how girls were discriminated against by the Progressive era juvenile justice system).

165. See Schlossman & Wallach, *supra* note 164, at 72-73. Between 1899 and 1909, the Chicago family court placed half the girl delinquents in reformatories as opposed to only one-fifth of the boy delinquents. See *id.* In Milwaukee, girls were twice as likely as boys to be committed to training schools. See *id.*

166. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 109 (explaining that a major goal of many of the institutions established for girls was to isolate them from all contact with males until they were of a marriageable age and had learned domestic skills).

Although there has been some advancement of our societal view of women since then, gender bias in the juvenile justice system still imposes unwarranted punishment on females who do not conform to traditional sex roles.¹⁶⁷ Girls found to have committed status offenses are treated more harshly than their male counterparts.¹⁶⁸ Female juveniles are more apt to enter the justice system

167. See Berger, *supra* note 16, at 384-85 (summarizing literature about gender bias in the treatment of female juvenile offenders).

168. See Bishop & Frazier, *supra* note 160, at 1186 (concluding that the traditional sexual double standard in the juvenile justice system continues to operate, and that female status offenders are more likely than males to be petitioned to court); Josefinia Figueira-McDonough, *Discrimination or Sex Difference? Criteria for Evaluating the Juvenile Justice System's Handling of Minor Offenses*, 33 CRIME & DELINQ. 403, 405-19 (1987) (reviewing research which indicates the existence of differential treatment of delinquents by gender, including that girls have a greater likelihood of being institutionalized for status offenses and that their incarceration is longer than that of boys); Pope & Feyerherm, *supra* note 151, at 15 (demonstrating that in the State of California, "females charged with status offenses receive the more severe disposition in that they are more likely to be held in detention and given a formal petition."); Ira M. Schwartz et al., *Federal Juvenile Justice Policy and the Incarceration of Girls*, 36 CRIME & DELINQ. 503, 513 (1990) (asserting that girls are disproportionately confined for minor and status offenses).

However, there is evidence that the reverse is true in the case of serious delinquency, where girls have been found by some to receive slightly more lenient dispositions. See Bishop & Frazier, *supra* note 160, at 1184 (finding that male delinquents are more likely than females to be formally processed, detained and incarcerated when referred to the system for criminal-type offenses); David R. Johnson & Laurie K. Scheuble, *Gender Bias in the Disposition of Juvenile Court Referrals: The Effects of Time and Location*, 29 CRIMINOLOGY 677, 694 (1991) (finding that for misdemeanor offenses and property felonies, girls were more likely to be dismissed and boys put on probation or locked up). But see Bishop & Frazier, *supra* note 160, at 1185 (finding that females who are found in contempt are substantially more likely to be petitioned to court than males, and that "females found in contempt are much more likely than their male counterparts to be sentenced to a period of up to six months' incarceration in secure detention facilities."); Johnson & Scheuble, *supra*, at 694 (noting that greater punishment was found for girls than boys in the case of repeat offenders committing more serious offenses).

It appears, then, that female status offenders, female serious repeat offenders and male delinquents are disadvantaged in the juvenile court system. See Bishop & Frazier, *supra* note 160, at 1186. This situation may reflect both a paternalistic and a chivalrous attitude toward girls. See Johnson & Scheuble, *supra*, at 680. When females violate traditional sex roles in committing status offenses, they are offending society's gender role expectations more than boys who commit the same offenses, and as a result they are punished more harshly to be protected from their possible improper behavior in the future. See *id.* But in the case of more serious violations of the law, girls "receive leniency and protection from the consequences of the more serious crimes." *Id.* Paradoxically, the harsh treatment female repeat criminal offenders receive may be due to some sort of "particular indignation" reserved for girls who have received lenient or chivalrous treatment in the past and yet have continued to re-offend. See Ruth Horowitz & Anne E. Pottieger, *Gender Bias in Juvenile Justice Handling of Seriously Crime-Involved Youths*, 28 J. RES. CRIME & DELINQ. 75, 98 (1991).

as status offenders than they are as more serious criminal-type offenders.¹⁶⁹ The disproportionate female involvement in status offenses does not fully explain the disproportionate quantity of females accused of status offenses, however.¹⁷⁰ Even though females are more likely to be detained for status offenses, male juveniles actually commit as many status offenses as females.¹⁷¹

Imprecise status offense laws are one reason female status offenders are disproportionately represented in the juvenile justice system. Indeterminate sentencing structures and vague statutory definitions of status offense violations provide juvenile courts with the discretion to give female juveniles excessively severe sentences.¹⁷² While many status offender statutes appear overly vague, constitutional attacks on grounds of vagueness have had little success.¹⁷³ From a legislator's or judge's viewpoint, the am-

169. See WASHINGTON STATE GOVERNOR'S JUVENILE JUSTICE ADVISORY COMMITTEE, 1995 REPORT, *quoted in* GIRARD S. SIDOROWICZ, APPLICATION FOR TRAINING & TECHNICAL ASSISTANCE PROGRAM TO PROMOTE GENDER-SPECIFIC PROGRAMMING FOR FEMALE JUVENILE OFFENDERS AND AT-RISK GIRLS 4 (1996) [hereinafter 1995 GOVERNOR'S JUV. JUST. REP.] (stating that in 1994 in Washington girls accounted for 58% of the runaway youth taken into police custody even though they only accounted for 26% of juvenile arrests in general); *see also* HOWARD N. SNYDER & MELISSA SICKMUND, OFFICE OF JUVENILE JUSTICE, AND DELINQUENCY. PREVENTION, JUVENILE OFFENDERS AND VICTIMS: A NATIONAL REPORT 39 (1995) (noting that "[w]hile females were charged in only 15% of the delinquency cases formally processed in 1992, they were involved in 42% of status offense cases.").

170. *Cf.* CHESNEY-LIND & SHELDEN, *supra* note 16, at 14 (contrasting the percentage of female criminals according to self-report surveys with the percentage of female arrests). In self-report surveys, people anonymously answer questions about their delinquent activities, particularly about acts that are never brought to the attention of or pursued by the justice system. *See id.* But *see generally* Michael J. Hindelang, *Sex Differences in Criminal Activity*, 27 SOC. PROBS. 143 (1979) (showing that the percentage of female perpetrators as reported by victims, whether the perpetrators were arrested or not, corroborates the arrest rates for females).

171. *See* JANE C. OLLENBURGER & HELEN A. MOORE, SOCIOLOGY OF WOMEN: THE INTERSECTION OF PATRIARCHY, CAPITALISM AND COLONIZATION 163 (1992); *see also* CHESNEY-LIND & SHELDEN, *supra* note 16, at 14-18 (using self-reporting studies to show similar rates for boys and girls with such offenses as truancy, defying parental authority, running away from home, and other minor offenses).

172. *See* CHESNEY-LIND & SHELDEN, *supra* note 16, at 123-26 (contrasting the rights of juveniles in criminal cases with the discretion afforded the juvenile justice system regarding status offenders); *infra* notes 173-174 and accompanying text (describing the difficulties in challenging status offense statutes).

173. *See* Bomar, *supra* note 71, at 722 (stating that "[m]ost of the challenged statutes contain amorphous language and do not define key terms, thereby failing to give adequate notice to potential offenders."); Costello & Worthington, *supra* note 65 at 48 (showing some of the motivations behind leaving status offense statutes ambiguous); Orman W. Ketcham, *Why Jurisdiction Over Status Offenders Should Be Eliminated From Juvenile Courts*, 57 B.U. L. REV. 645, 657 (asking, "[w]ho can determine with specificity which child is 'ungovernable,' which one is

biguity of the statute's terms and the discretion afforded judges "have been regarded as necessary, even desirable, devices for identifying and treating children in need of care."¹⁷⁴ Discretion gives judges increased control over the treatment juvenile offenders receive. However, whenever discretion is available to the courts, there is an increased possibility of unequal treatment.¹⁷⁵

The movement toward deinstitutionalization of status offenses, which was encouraged by the JJDPa,¹⁷⁶ has not abated the inequitable treatment girls receive from the system.¹⁷⁷ It might be expected that the JJDPa would have a tendency to equalize the treatment given to male and female status offenders, since the practice of incarcerating girls for status offenses disadvantaged girls in the past and since the JJDPa forbids incarcerating girls for those offenses in the future.¹⁷⁸ However, no significant changes have occurred in the juvenile court system in the area of gender bias, except that "differential treatment is now hidden in one or more ways."¹⁷⁹

Many states complying with the JJDPa have found ways to sidestep its systemic control over status offenders.¹⁸⁰ States cir-

'growing up in idleness and vice,' or which juvenile is 'habitually beyond the control of his or her parents?') (citation omitted); see also *E.S.G. v. State*, 447 S.W.2d 225, 227 (Tex. Civ. App. 1969) (rejecting arguments that a statute defining a delinquent as one who "habitually so comports himself as to injure or endanger the morals or health of himself or others" is unconstitutionally vague); Irene M. Rosenberg, *Juvenile Status Offender Statutes: New Perspectives on an Old Problem*, 16 U.C. DAVIS L. REV. 283, 295 (1983) (concluding, that despite the vague language of the statutes, courts have not found any problem with most of the statutes).

174. Costello & Worthington, *supra* note 65, at 48. See *id.* at 63-65 for a more complete discussion of the various attacks that have been made on status offense statutes, why they have not been successful and which approaches might be promising.

175. See Barry C. Feld, *Criminalizing Juvenile Justice: Rules of Procedure for the Juvenile Court*, 69 MINN. L. REV. 141, 255 (1984) (explaining advocates' concerns that although indeterminate sentencing gives experts great discretionary power, these experts are unable to justify their different treatment of similarly situated offenders).

176. See *supra* notes 71-83 and accompanying text (describing the development of the JJDPa).

177. See generally Costello & Worthington, *supra* note 65 (explaining how states can still institutionalize status offenders in spite of the JJDPa).

178. See Bishop & Frazier, *supra* note 160, at 1166 (stating that "[o]ne consequence of this change in the law [the JJDPa] may be that it has become difficult for justice officials to practice differentially protectionist policies toward female status offenders.").

179. *Id.*; see *infra* notes 180-183 and accompanying text (discussing three methods by which states hide differential treatment of status offenders).

180. See generally Costello & Worthington, *supra* note 65 (discussing the tactics states use to circumvent the JJDPa's requirement of deinstitutionalization of status offenders).

cumvent the JJDPa by three methods. First, girls may be "bootstrapped" into the juvenile system and be held in a secure facility for being found in contempt of a court order.¹⁸¹ Second, girls may be placed in an alternative private institution such as a drug treatment program or a mental hospital.¹⁸² Third, girls may be

181. *See id.* at 58-61. "Bootstrapping is the use of the contempt power by juvenile courts to elevate a status offender into a juvenile delinquent." *Id.* at 58. The issuance of a criminal contempt citation turns a juvenile who was a status offender into a juvenile delinquent since they have now committed a criminal-type offense. *See id.* Bootstrapping was not allowed under the original JJDPa; "[d]uring the first six years following the enactment of the JJDPa, the secure detention of any status offender was prohibited, including the detention of any child who had been held in contempt for violating a court order." *Id.* at 55.

The 1980 amendments to the JJDPa permitted the incarceration of status offenders who violate valid court orders. *See* 42 U.S.C. § 5633(a)(12)(A) (1994). "This change was a legislative response to concern (and frustration) with status offenders who continually violated court orders," most frequently by running away. Bomar, *supra* note 71, at 732. "The [JJDPa] allows state legislators to permit status offenders who violate court orders to be incarcerated." *Id.* at 733; *see also* Bishop & Frazier, *supra* note 160, at 1167 (showing concern about how the 1980 amendment to the JJDPa may perpetuate gender bias); Dalby, *supra* note 74, at 437 (discussing in detail the "valid court order" amendment and its effect on female status offenders).

182. *See* Costello & Worthington, *supra* note 65, at 61. Even though the JJDPa prohibits the institutionalization of status offenders in secure detention or correctional facilities, it does not extend that prohibition to mental health facilities. As states have implemented the JJDPa policies and removed status offenders from their correctional facilities, there has been a significant increase in placement of status offenders in private treatment facilities; *See* Bomar, *supra* note 71, at 736 (citing ANNE L. SCHNEIDER, *THE IMPACT OF DEINSTITUTIONALIZATION ON RECIDIVISM AND SECURE CONFINEMENT OF STATUS OFFENDERS* 13 (1985)). Deinstitutionalization reduced states' reliance on traditional correctional institutions, but this gain has been offset by a corresponding increase in the use of nontraditional institutions, such as "private juvenile correctional facilities, child welfare residences, and mental health facilities." Paul Lerman, *Trends and Issues in the Deinstitutionalization of Youths in Trouble*, 26 *CRIME & DELINQ.* 281, 282 (1980). "A 'hidden' or private correctional system rapidly evolved for disruptive youth who are no longer processed by the public juvenile justice correction agencies." Barry Krisberg & Ira Schwartz, *Rethinking Juvenile Justice*, 29 *CRIME AND DELINQ.* 333, 361 (1983). This increasing use of private juvenile correctional facilities and mental health facilities to manage a group of juveniles who would have been charged as status offenders is troublesome to some scholars because these youth do not typically suffer from the types of severe mental disorders which require institutionalization. *See* Lois A. Weithorn, *Mental Hospitalization of Troublesome Youth: An Analysis of Skyrocketing Admission Rates*, 40 *STAN. L. REV.* 773, 774 (1988) (examining the extent of rising admission rates of troubled juveniles to mental hospitals, and reviewing "data indicating that a large proportion of adolescents in inpatient psychiatric facilities do not have severe or acute mental disorders"). In addition to the concern that juveniles are receiving treatment that they do not need, there is the added consideration that hospitalization "restricts liberty and presents risks of substantial psychological and physical harm to some children." *Id.* at 774; *see also* Costello & Worthington, *supra* note 65, at 61-72 (explaining the ways in which a child under the juvenile court's jurisdiction may be brought into the mental health care system).

"reabeled" by being charged with a low level criminal-type offense instead of a status-type offense.¹⁸³

Washington's Becca Bill allows for easier bootstrapping through the court's contempt power.¹⁸⁴ The Washington State juvenile court previously had contempt provisions that could force juveniles into compliance with court orders such as in-home or out-of-home placements and school attendance.¹⁸⁵ This contempt power is not new, but it is more potent under the Becca Bill,¹⁸⁶ which requires that all ARY and CHINS petitions be considered by the juvenile justice system.¹⁸⁷ One commentator provides an example of how the contempt proceeding operates under the Becca Bill:

A child is taken to a secure CRC for the five-day holding period by police-initiated action or by a report from the parents that the child is missing. If the parents wish to order the child to remain in the home . . . a CHINS or an ARY petition may be filed on that child. If the child is adjudicated a CHINS or an ARY, then the court, based on a social worker's recommendation, enters a dispositional order. The order may require the child to remain in placement or in the home . . . and to comply with other rules deemed necessary by the parents or DSHS. If the child runs from home or placement, the parent or DSHS can bring a[n] . . . order alleging the child to be in contempt. The child, after a finding of contempt, can be placed in a juvenile detention facility for seven days. Then the child will be released to the home If the child runs away again, the cycle is perpetuated and the lockups continue.¹⁸⁸

This perpetual process of bootstrapping status offenders will discriminate against girls since many more girls than boys are

183. See Costello & Worthington, *supra* note 65, at 72. Relabeling refers to the current trend of charging girls with low level criminal-type offenses for behavior that previously was classified as a status offense in order to bring them within the jurisdiction of the juvenile justice system. See *id.* An example would be if a run-away girl broke into her parents' home and took ten dollars. She could easily be charged with a status offense of incorrigibility or running away because her crime was minor and within the family. But using the practice of relabeling, the state could choose to charge her with theft instead, in order to keep her under the jurisdiction of the juvenile courts. See Bishop & Frazier, *supra* note 160, at 1167-68 (citing studies that "suggest that [juvenile] justice workers may have redefined many status offenses as criminal-type offenses in order to render girls eligible for the kinds of protectionist sanctions which had traditionally been applied").

184. See Ivey, *supra* note 20, at 150-55 (discussing the problems with Washington's bootstrapping power under the Becca Bill).

185. See WASH. REV. CODE ANN. § 13.32A.250 (West 1994), amended by WASH. REV. CODE ANN. § 13.32A.250 (West Supp. 1997) (providing for a "finding of contempt for failure to comply with the terms of a court order entered into pursuant to this chapter."); see also Ivey, *supra* note 20, at 150-51 (noting that the power of a court to exercise its contempt power is not new in the United States).

186. See Ivey, *supra* note 20, at 151.

187. See *supra* notes 121-122 and accompanying text (discussing the new Becca Bill provision requiring that all CHINS and ARY petitions be reviewed).

188. Ivey, *supra* note 20, at 151-52.

subject to ARY petitions.¹⁸⁹ Because the Becca Bill requires that these petitions be heard,¹⁹⁰ more girls will be forced back into their homes where they may be again sexually abused.¹⁹¹ These girls will run away from home again to escape the abuse, be held in contempt of court for running away and violating the court order, and quite possibly be incarcerated.¹⁹² In effect, Washington's juvenile justice system forces girls to remain in abusive environments, then penalizes them for attempting to escape.

The second way states may circumvent the JJDPa is by placing status offenders in treatment programs.¹⁹³ Alternative treatment centers play a role in incapacitating girls. Extensive research should be conducted to determine the extent to which girls are placed in treatment centers as an alternative to being detained by the juvenile justice system itself.¹⁹⁴ Becca is just one example of a girl who was placed in this type of program against her will. Becca did not voluntarily enter into treatment. She repeatedly ran away from involuntary treatment programs.¹⁹⁵

Relabeling,¹⁹⁶ the third approach to circumventing the JJDPa, is pervasive in Washington. One researcher reports that relabeling and discretion permits approximately half of Washington's status offenders to be referred to court.¹⁹⁷ Relabeling and

189. See 1995 GOVERNOR'S JUV. JUST. REP., *supra* note 169, at 5 (stating that girls accounted for 66% of the at-risk youth petition filings during the first six months of 1993).

190. See *supra* notes 184-187 and accompanying text (discussing the use of bootstrapping under the Becca Bill).

191. See *supra* Part IV.A (noting the prevalence of sexual abuse in the home of female offenders).

192. See *supra* note 110 (discussing the police pick-up and detention or even eventual incarceration of status offenders found in contempt of court).

193. See *supra* note 182 and accompanying text.

194. See 1995 GOVERNOR'S JUV. JUST. REP., *supra* note 169, at 40. There are currently no statistics for Washington which provide a gender breakdown of contact with the juvenile justice system and later confinement in drug/alcohol or psychiatric and psychological assessment and treatment programs. See *id.* The Governor's Juvenile Justice Advisory Committee intends to conduct research to assess girls in the juvenile justice system. See *id.*

195. See *supra* note 36 and accompanying text (describing Becca's experience at Daybreak, a drug and alcohol center for teens in Spokane, Washington).

196. See *supra* note 183 and accompanying text (defining the process of relabeling).

197. See Anne L. Schneider, *Divesting Status Offenses from Juvenile Court Jurisdiction*, 30 CRIME & DELINQ. 347, 367 (1984). Schneider states that "[r]elabeling obviously occurred in the sense that youths who would have been handled as status offenders in the prereform period were processed as delinquents in the post [reform period]." *Id.* at 367. In Seattle, the probability that a runaway would have delinquency charges filed and sanctions applied increased after the requirements set forth under the JJDPa were made law in Washington. See *id.* at

discretion are used to bring status offenders under the jurisdiction of the court at a rate almost as great as had existed prior to Washington's deinstitutionalization of status offenses.¹⁹⁸ Relabeling, then, is a powerful tool that Washington uses to put status offenders, a majority of whom are girls, back under the restrictive control of the juvenile justice system.

C. Victims of Neglect: Girls Retained in the System

Institutionalized delinquent girls often receive inappropriate and inadequate rehabilitative care.¹⁹⁹ Since Washington and other states are bringing more and more girls, both status offenders and delinquents, into their juvenile justice systems,²⁰⁰ it is important to consider how states treat female juveniles once they become part of the system.

1. Girl Offenders and Ineffective Programming

Girl offenders are often placed in facilities and/or programs designed for either delinquent boys or criminal females.²⁰¹ A 1985 review of youths detained in Minnesota adult jails revealed that a higher percentage of girls than boys were placed in these jails for less serious offenses.²⁰² In an attempt to protect girls from contact with adult inmates, girls are often held in "what amounts to solitary confinement."²⁰³ This isolation and lack of supervision of girls

360. For an example of how the relabeling process functions, see *supra* note 183.

198. See Schneider, *supra* note 197, at 365.

199. See generally CHESNEY-LIND & SHELLEN, *supra* note 16, at 141-66 (discussing the experience of girls in institutions).

200. See 1995 GOVERNOR'S JUV. JUST. REP., *supra* note 169, at 5 (citing data collected on girls in Washington, which found that girls accounted for 18% of the detention population and 8% of the total juvenile commitment population, and that in the last five years the committed female population has doubled); see also FEMALE OFFENDERS IN THE JUV. JUST. SYS., *supra* note 18, at 19 (charting data showing that girls account for an average of 19% of detention admissions in the United States and 11% of commitment admissions).

201. See 1995 GOVERNOR'S JUV. JUST. REP., *supra* note 169, at 5 (discussing the prevalence of girls in adult jails); cf. Ollenburger & Trihey, *supra* note 58, at 237 (noting that in the past, the juvenile system has been modeled for juvenile male offenders, ignoring the needs of the relatively few juvenile females in the system).

202. See IRA M. SCHWARTZ ET AL., HUBERT HUMPHREY INSTITUTE FOR PUBLIC AFFAIRS, THE JAILING OF JUVENILES IN MINNESOTA 5 (1987) (finding that in Minnesota, 35% of the girls were jailed for status offenses, compared with only 14% of the boys); see also CHESNEY-LIND & SHELLEN, *supra* note 16, at 153-54 (reporting on similar data from states other than Minnesota).

203. CHESNEY-LIND & SHELLEN, *supra* note 16, at 154. For example 15 year old Kathy Robbins was arrested for running away. See *id.* She was held in an adult jail and strip-searched. See *id.* She was only allowed one short visit with her mother while she was held in virtual isolation for five days. See *id.* Kathy was found dead, hanging from the guardrail of her top bunk. See *id.* Although there

is extremely risky, especially because of the prevalence of abuse in their backgrounds.²⁰⁴

Girls in juvenile facilities frequently find themselves participating in facilities which were created for boys.²⁰⁵ As a result, the facilities' treatment programs are rarely prepared to address delinquent girls' problems.²⁰⁶ Sexual abuse, pregnancy, child care, depression, eating disorders and suicide are the more prevalent problems among girls.²⁰⁷ Because of juvenile facilities' continued failure to provide services to female juvenile offenders, many girls who have serious problems will not be treated appropriately.²⁰⁸

Several barriers must be surmounted before appropriate programs for female juvenile offenders are established and evaluated. The first barrier is insufficient public, governmental or academic concern dedicated to treating girl offenders.²⁰⁹ Second, funding of programming for troubled girls remains a low priority.²¹⁰ Third, there are very few studies showing why girls commit offenses²¹¹ and what types of rehabilitation have been effective.²¹²

was space for her at a nearby group home, she was taken to the adult jail instead, where she experienced isolation, lack of supervision and eventually committed suicide. *See id.* This is a tragic example of the problems that arise from placing a girl in an adult jail when she has not committed a crime.

204. *See id.* at 155.

205. *See* Poulin, *supra* note 136, at 564 (discussing that there are fewer program and facility options for delinquent girls than for delinquent boys).

206. *See* Bergsmann, *supra* note 16, at 75. Adjudicated juvenile females are offered few programs or services designed to meet their particular needs. *See id.* "Often, the young women are imposed on all-male facilities in which policy and procedure frequently are not written from an equity perspective and where programs and services are more appropriate for males than females." *Id.*; *see also* Ollenburger & Trihey, *supra* note 59, at 237 (explaining that programs aimed at reforming males have little relevance to female offenders because female offenders are more likely to have been victims of a culture of violence than to have "created" it).

207. *See* Ollenburger & Trihey, *supra* note 58, at 237 (citing female issues that have not been considered as prominent concerns of the judicial system).

208. *Cf.* Poulin, *supra* note 135, at 565 (explaining that the limitations on programming for females has serious consequences).

209. *See supra* notes 16-19 (discussing the "invisibility" of female offenders in the juvenile justice system). Sexuality is one exception of the general disregard for girl offenders' problems. *See supra* notes 163-166 and accompanying text (noting the current and historical preoccupation of the juvenile justice system with girls' sexuality).

210. *See* CHESNEY-LIND & SHELDEN, *supra* note 16, at 184. One reason given for lack of programming development for girls is that the small number of girls in the system cannot support the special attention that is necessary to make gender-specific changes. *See* Bergsmann, *supra* note 16, at 75.

211. *See* CHESNEY-LIND & SHELDEN, *supra* note 16, at 54. Chesney-Lind and Sheldon state that the "[d]elinquency theory, indeed all of criminology, has ignored girls." *Id.* Major juvenile criminology theories are based on boys' behavior, *see supra* notes 16-19 and accompanying text, and therefore do not adequately explain

2. Girl Offenders and Traditional Programming

The traditional approach to treating troubled youth utilized a variety of programming. The casework approach, often called the social work approach, involves diagnosis, treatment, recommendations and direct services.²¹³ Casework programming is ineffective unless girls are guaranteed continued access to the services and the follow-up assistance necessary to guide them to independence.²¹⁴

Large institutions commonly provide education programs.²¹⁵ This approach alone, however, often is not useful to girls. Educational programming actually increases recidivism among girl offenders,²¹⁶ because grouping large numbers of troubled youths together creates problems, particularly for girls.²¹⁷ Girl offenders are faced with various harmful effects of participating in juvenile justice programs.²¹⁸ These effects include an increased tendency toward alcoholism²¹⁹ and a greater likelihood of entering the social welfare system as adults.²²⁰ Exposure to more serious offenders, as girls would experience in a large group educational setting, actually increases their level of delinquency.²²¹

the behavior of girl offenders. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 54-79.

212. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 183. "Many evaluations of particular approaches do not deal with gender issues and frequently the evaluated programs do not even serve girls." *Id.* In Washington, Shauna Hormann, Program Director of Ecco Glen Children's Center, has no statistical data on the efficacy of their drug treatment and counseling programs. See Telephone Interview with Hormann, *supra* note 139. She stated that the legislature has never allocated the funds to study the effectiveness of their programming for girls. See *id.*

213. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 185. Chesney-Lind and Shelden wrote the most complete discussion of the traditional approaches toward rehabilitative programming for juveniles and the specific effects that these programs have on girls.

214. See *id.* at 186.

215. See *id.* at 187.

216. See *id.* at 187-91.

217. See *id.* at 188.

218. See William H. Barton, *Discretionary Decision-Making in Juvenile Justice*, 22 CRIME & DELINQ. 470, 478-80 (1976) (exploring the strong possibility that labeling a girl as a juvenile delinquent is associated with subsequent delinquent behavior); see also Poulin, *supra* note 135, at 564 (describing various articles which discuss the malevolent nature of juvenile court intervention).

219. See Brenda A. Miller et al., *Delinquency, Childhood Violence, and the Development of Alcoholism in Women*, 35 CRIME & DELINQ. 94, 104 (1989) (suggesting that alcohol problems are connected to groups of delinquents who usually exhibit maladaptive, deviant behavior).

220. See Poulin, *supra* note 135, at 566 (summarizing literature on female delinquents' future welfare needs).

221. See *id.*

Counseling, psychotherapy and mental hospitalization are among the least effective approaches for treating female status offenders.²²² Research indicates that individual counseling of girls has almost no effect on recidivism.²²³ This may result from therapy approaches for juvenile offenders, which are based upon development theories of boys rather than girls.²²⁴ Family counseling fares no better, proving successful only when the familial problems are not profound.²²⁵ Since female juvenile offenders are often faced with serious family problems of sexual and physical abuse, family counseling is problematic. If family counseling is based on the notion that the family unit is paramount, it may actually harm abused girls.²²⁶ Generally, the intervention provided by family counseling is insufficient and comes too late.²²⁷

Traditional non-institutional alternatives for girls who cannot live at home, though less restrictive, are similarly ineffective. Foster care programs frequently uproot children from their families only to pass them from foster home to foster home, creating extreme instability in those children's lives.²²⁸ In addition, foster parents receive virtually no training and therefore are unprepared to deal with delinquent girls' problems.²²⁹ Group homes are somewhat better than foster home placements at reducing recidivism, but group homes often fail to provide girls with the skills necessary to lead a normal life.²³⁰ Group homes typically are not designed to address the particular problems of girls or equipped to teach them the skills and provide the specific training they

222. See *id.* at 190-93 (explaining various studies that show counseling and psychotherapy are not effective); see also DENNIS ROMIG, JUSTICE FOR OUR CHILDREN: AN EXAMINATION OF JUVENILE DELINQUENT REHABILITATION PROGRAMS 73 (1978) (stating that "group counseling should not be relied upon as a vehicle to rehabilitate").

223. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 191.

224. See *id.* at 192.

225. See *id.*

226. See generally *id.* at 193 (suggesting that such a method of family counseling should be critically viewed and that in some cases children should be allowed to live away from their parents).

227. See *id.*

228. See *id.* at 196. In 1980, Congress passed the Adoption Assistance and Child Welfare Act, 42 U.S.C. §§ 620-678, which required states receiving federal funds to develop permanent placement plans for all of their children placed in foster home programming, presumably recognizing that many children were harmed by being passed around to various foster homes. See *id.*

229. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 196; *supra* notes 206-207 and accompanying text (listing some particular problems of girl offenders).

230. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 197 (reviewing the effectiveness of group homes in comparison to other forms of programs).

need.²³¹ Work and vocational programs are more effective than educational training²³² because they focus on the acquisition of specific job skills rather than on general education.²³³ Nevertheless, even educational and vocational programs tailored to the needs of female juvenile offenders tend to suffer from gender bias.²³⁴

Since the inception of the juvenile justice system in the United States, the educational, social and vocational training provided to girls and boys in the system has differed greatly.²³⁵ Societal views of gender roles have shaped the system's programming. Girls were expected to marry and run a household.²³⁶ Consequently, they were taught skills that would make them good wives and mothers, such as sewing, cooking, and other "womanly arts."²³⁷ In contrast, boys were taught breadwinning skills—job skills.²³⁸

This gender stereotyping exists in the system today. Girls are over-represented in home economics and office training programs.²³⁹ Boys, by contrast, are offered training in traditionally male-dominated fields, such as auto mechanics, electronics and welding.²⁴⁰ As a result of this gender bias, boys are trained for more remunerative vocations.²⁴¹ However, upon leaving delinquency programs, girls are faced with the same urgent need to support themselves and often must support children as well.²⁴²

231. See Margaret V. Simone, *Group Home Failures in Juvenile Justice: The Next Step*, 64 CHILD WELFARE 357, 360-61 (1985).

232. But see CHESNEY-LIND & SHELDON, *supra* note 16, at 190 (arguing that vocational programs are less successful than education programs because they rely too heavily on counseling, rather than offering real employment).

233. See *id.* at 189.

234. See *id.* at 164.

235. See Schlossman & Wallach, *supra* note 164, at 74-76 (recounting the historical differences in training for boys and girls).

236. See *id.*

237. Chesney-Lind, *supra* note 150, at 128.

238. See Bergsmann, *supra* note 130, at 100-01.

239. See *id.* at 101.

240. See *id.* at 100-01.

241. See *id.* at 100. "Low-wage, traditional female programs, such as nurse's aide training, are available in greater numbers for females than males." *Id.* at 101.

242. See CHESNEY-LIND & SHELDON, *supra* note 16, at 184. Girls frequently have the additional burden of supporting a child, and most receive very little help. See *id.*

The most desperate need of many young women is to find the economic means of survival. While females today are still being socialized to believe that their security lies in marriage and motherhood, surveys of teenage mothers indicate that approximately 90 percent receive no financial

One commentator suggests that "[u]nless correctional staff can help break the cycle of poverty, [girls] will continue to be qualified only for low-skill, low-wage trades."²⁴³

The juvenile justice system does a grave disservice to girl offenders, particularly status offenders. They receive neither the benefits of effective treatment nor the training²⁴⁴ that the *parens patriae* justification for juvenile intervention claims to provide.²⁴⁵

3. Girl Offenders and Washington State's Programming

Washington's female juvenile offender population "has seldom been given priority in terms of program planning and services."²⁴⁶ Ecco Glen Children's Center (Ecco Glen) in Snoqualmie, Washington, is the only state-operated facility for delinquents that houses committed females.²⁴⁷ Committed female offenders range from ages ten to twenty-one.²⁴⁸ These girls constitute one-third of the institution's population.²⁴⁹ They share Ecco Glen with the youngest and least sophisticated boy offenders.²⁵⁰ Only recently have girls been institutionalized in large enough numbers for the state to consider developing specific programming for them.²⁵¹

Girls receive the same academic programming as boys at Ecco Glen. Washington, however, has developed sexual and physical abuse treatment programs tailored to meet girls' needs.²⁵² Ecco Glen also has drug and alcohol abuse education, evaluation, and treatment programs designed for female juveniles.²⁵³ Ecco Glen recognizes that the needs of girls, healing from sexual and physical abuse, are different from those of boys.²⁵⁴ Ecco Glen's staff is spe-

aid from the fathers of their children.

THE SECOND MILE: CONTEMPORARY APPROACHES IN COUNSELING YOUNG WOMEN ix (Sue Davidson ed., New Directions for Young Women 1983).

243. Bergsmann, *supra* note 130, at 101.

244. *See supra* Part IV.C.1-2 (describing the ineffective and unequal treatment and training that girl offenders receive).

245. *See* Costello & Worthington, *supra* note 65, at 43 (discussing the doctrine of *parens patriae*).

246. 1995 GOVERNOR'S JUV. JUST. REP., *supra* note 169, at 4.

247. *See id.* at 4-5.

248. *See id.* at 5.

249. *See* Telephone Interview with Bonita Jacques, Diversity Coordinator for Juvenile Rehabilitation Admin., Dep't. of Soc. & Health Servs. (Oct. 1996) [hereinafter Telephone Interview with Jacques].

250. *See id.*

251. *See id.*

252. *See id.*

253. *See id.* There are rarely enough beds for the juveniles who need inpatient drug treatment, so offenders who are there for less than six months rarely receive treatment. *See id.*

254. *See id.* For example, girls are taught that every relationship they have

cifically trained to treat females²⁵⁵ by maintaining survivor's groups for victims of both sexual and physical abuse.²⁵⁶

Ecco Glen's academic programs and physical, sexual and drug abuse treatment of girl offenders are adequate, but the girls receive no vocational training.²⁵⁷ Even girls held in minimum security facilities, girls who have the best opportunity to improve their lives, receive no vocational training.²⁵⁸ Although it is a goal of the Juvenile Rehabilitation Administration to "improve vocational offerings to female offenders,"²⁵⁹ little improvement has occurred.²⁶⁰ The Washington State legislature has repeatedly vetoed funding for girls' vocational training.²⁶¹

Boys, on the other hand, receive a wide variety of vocational course offerings.²⁶² In fact, the number and types of courses for boys have increased in each of the past three years.²⁶³ Boys have access to forestry camps, television and video technology, small engines, computers, carpentry and drafting classes.²⁶⁴ While the Washington State Department of Social and Health Services recognizes that "[j]obs of the future will require higher degrees of technical skills"²⁶⁵ and that "[i]ncarcerated juveniles are at a very high risk of failure in the current . . . employment market,"²⁶⁶ they continually fail to provide incarcerated girls with any vocational training.²⁶⁷

Despite the discouraging results of traditional programs, promising treatments do exist. The most innovative programs in

with a male does not have to be abusive. *See id.*

255. *See* 1995 GOVERNOR'S JUV. JUST. REP., *supra* note 169, at 5. Ecco Glen's staff offer state-wide training for parole and group home staff on working with juvenile female offenders. *See id.* at 6. Training topics include: 1) gender-specific programming; 2) grief and loss issues; 3) development issues; 4) offense cycles/patterns; and 5) transition to community. *See id.*

256. *See* Telephone Interview with Hormann, *supra* note 139.

257. *See* JUVENILE REHABILITATION ADMIN., WASH. STATE DEPT OF SOC. AND HEALTH SERVS., VOCATIONAL EDUCATION IN WASHINGTON STATE'S JUVENILE CORRECTIONAL FACILITIES: A REPORT TO THE WASHINGTON STATE LEGISLATURE 33 (1995) [hereinafter VOCATIONAL EDUC.]

258. *See* Telephone Interview with Hormann, *supra* note 139. The girls in Washington's minimum security group homes are allowed to hold jobs and experience somewhat independent living. *See id.*

259. VOCATIONAL EDUC., *supra* note 257, at 33.

260. *See* Telephone Interview with Hormann, *supra* note 139.

261. *See id.*

262. *See* VOCATIONAL EDUC., *supra* note 257, at 20.

263. *See id.*

264. *See id.* at 18.

265. *Id.* at 12.

266. *Id.*

267. *See id.* at 33.

the country tend to provide a combination of housing, schooling, vocational training, counseling, drug treatment, family therapy, employment and follow-up supervision.²⁶⁸ The greatest problem most of these programs face is a lack of funding.²⁶⁹ Innovative programs that provide the correct combination of services must be able to rely on stable funding.²⁷⁰ However, most programs have been forced to utilize temporary federal funding or private foundation grants, all of which are unstable.

V. Recommendations for Reform

Many of the ways in which girl offenders have been treated in the juvenile justice system have proven ineffective and are discriminatory.²⁷¹ Girl offenders in Washington's juvenile justice system continue to receive unequal treatment.²⁷² This inequity can be mitigated by completely divesting the juvenile justice system of all status offenses and by limiting the discretion of government officials. Washington State's legislature must also provide broader funding of non-profit organizations that help troubled girls. In addition, the juvenile justice system should develop and implement programs that specifically treat girls once they have entered the system.

A. Girl Offenders and Legislative Changes

While the Becca Bill brings more girls into the juvenile justice system, it fails to address appropriately girls' welfare once in the system. Washington State legislators should limit juvenile justice officials' discretion by enacting legislation that would deinstitutionalize status offenses and restrict the practice of relabeling. Additionally, Washington State legislators should consider the special circumstances of girl offenders and fund programs that address these circumstances.²⁷³

268. See generally CHESNEY-LIND & SHELDEN, *supra* note 16, at 200-08 (describing several experimental programs and their success).

269. See *id.* at 208 (noting that federal funds or private foundation grants support some of the most innovative programs, yet provide no ongoing funding stability).

270. See *id.* (emphasizing once again, that stable funding often eludes the more creative programs).

271. See *supra* Part IV.C.1 (describing various types of failed programming for girls).

272. See *supra* Part IV.C.3 (explaining the unequal treatment girl offenders receive in Washington's juvenile justice system).

273. See *supra* Part IV (explaining common problems shared by female delinquents).

Because juvenile justice officials have wide discretion in deciding how and with what girls are charged, they can unfairly treat girls.²⁷⁴ Juvenile justice officials' discretion to charge girls for *de minimis* conduct should be eliminated by legislation limiting juvenile justice jurisdiction to conduct that would be considered criminal if the perpetrator were an adult. This would mean a complete deinstitutionalization of status offenses.²⁷⁵ Such legislation would lessen some of the discrimination girls face by ensuring that they will not be punished for conduct that is merely considered inappropriate for girls.²⁷⁶ Elimination of status offenses will also protect girls from being bootstrapped into the system.²⁷⁷

Washington State's legislature may further alleviate the juvenile justice system's discriminatory treatment of girl offenders by restricting the practice of relabeling status offenses as criminal.²⁷⁸ Relabeling helps no one; the offender's disposition does not match the true nature of her offense, yet she may be placed in a facility or program where she will be exposed to more serious juvenile offenders. This legislation could control relabeling by requiring that the accuracy of all charges be scrutinized. Courts should not allow the admission of a charge without a factual basis. If police, prosecutors and defense counsel know that judges will require a full accounting of the charges against juveniles, the police and prosecutors will be less likely to attempt to portray *de minimis* conduct as criminal.

In any future reform, Washington State's legislature must seriously consider cycles of familial abuse, focus on victimized girls' safety and welfare as well as the family's perceived needs. In cases of familial sexual or physical abuse, legislative orientation toward keeping the family together at all costs can be disas-

274. See *supra* notes 172-175 and accompanying text (exploring the potentially harmful effects of juvenile justice officials' discretion).

275. See *supra* notes 90-92 and accompanying text (describing Washington's policy of deinstitutionalization).

276. See *supra* notes 163-167 and accompanying text (explaining how girls have historically been and still continue to be charged with status offenses because they do not conform to traditional sex role standards); *supra* notes 168-171 and accompanying text (explaining that girls are more apt to be charged with status offenses and that they receive more severe dispositions when they are adjudicated as status offenders).

277. See *supra* notes 181, 184-192 and accompanying text (illustrating how courts use bootstrapping to raise status offenses into criminal-type offenses through citations for contempt of court).

278. See *supra* notes 183, 197-198 and accompanying text (describing the process of relabeling status offending conduct as criminal conduct and how Washington frequently utilizes the relabeling process).

trous.²⁷⁹ Forcing a troubled girl back into the home where she was abused creates more problems than it solves since she will probably be abused again. All effective juvenile justice legislation must reflect the needs of girls who are victims at home.

Washington State's legislature must allocate more funds for female juvenile programs. With this funding, programs developed for girls' specific needs²⁸⁰ may be widely implemented. Government funding provides stability to programs for girls so that the programs can continue for more than a few years. The longer the program has been in existence, the easier it is to evaluate. As more programs continue to operate and can be evaluated, the better our understanding of girl offenders' needs will be.

B. Girl Offenders and Programming Changes

Washington currently meets its female delinquents' emotional needs²⁸¹ but not their vocational needs.²⁸² Acquiring vocational skills is key to girl offenders' economic survival.²⁸³ Currently, most girls receive predominantly domestic training rather than marketable job skills. This lack of job training perpetuates delinquent girls' economic dependence upon the government or crime.²⁸⁴

When girls enter rehabilitation programs, they need job training, including information about finding and retaining jobs. Moreover, because counseling and treatment are ineffective without economic survival training, these treatment programs would be most beneficial if practical and vocational skills were incorporated.²⁸⁵ After job placement, follow-up must include a discussion about any problems encountered and the effectiveness of the girls'

279. See *supra* note 226 and accompanying text (explaining that family counseling based on the notion that the family unit is paramount often harms girls who are victims of abuse).

280. See *supra* Part IV (noting the particular set of problems girl offenders tend to have).

281. See *supra* Part IV.C.3 (describing Washington's treatment and counseling services for female delinquents).

282. See *supra* Part IV.C.2 (discussing the juvenile justice system's general lack of vocational training for female delinquents).

283. See *supra* notes 242-243 and accompanying text (explaining that girl offenders not only have trouble supporting themselves, but they often must also support a child); *supra* notes 257-267 and accompanying text (explaining that girls in Ecco Glen receive virtually no vocational training).

284. See *supra* Part IV.C.3 (describing how girls are often taught domestic or traditionally female skills which lead to low-paying jobs).

285. See *supra* text accompanying note 223 (citing studies suggesting that counseling for girls has little effect on recidivism when compared with doing nothing).

placements.²⁸⁶ Practical and useful training will help girls lead independent lives and successfully adapt to living in their community.²⁸⁷

Deinstitutionalized status offenders should still have access to programming. If status offenders are deinstitutionalized, many juvenile girls previously considered offenders will not come under the jurisdiction of the courts.²⁸⁸ There is a danger that these girls will be ignored by the government. Ignoring troubled juvenile girls will not help them to overcome the victimization they have experienced in the past. They must be given access to government-funded programs which are developed by and implemented on the community level. Participation in these programs should be voluntary and should include the appropriate combination of emotional and economic guidance. Housing resources for girls who cannot safely return home should be provided.²⁸⁹

One example of a successful program for girls was established by a YWCA in Portland, Oregon.²⁹⁰ This state-supported program was developed to prepare girls for independent living "in a safe environment away from the victimizers."²⁹¹ In the first three months of the six-month program, girls live in a dormitory where they are provided with all of their daily needs.²⁹² They attend therapy to help them cope with their past experiences of victimization. The girls also participate in activities which focus on job skill development.²⁹³ Girls must find employment after the first month of the program.²⁹⁴ During the last three months of the program, girls may move to their own apartments and attend more individualized programs.²⁹⁵ They are allowed to return to the dormitories whenever they need to, and twenty-four hour crisis

286. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 199.

287. See *supra* note 268 and accompanying text; *infra* notes 290-298 (outlining successful approaches to treating and reforming delinquents).

288. See *supra* Part II.B (providing the effects of deinstitutionalization).

289. See CHESNEY-LIND & SHELDEN, *supra* note 16, at 207. "As a society, we have been reluctant to provide long-term, stable solutions to the problems of teens in conflict with their families." *Id.* For girls who are on their own, we need to "focus on [their] urgent need . . . to have access to medical, dental, educational and housing resources." *Id.*

290. See *id.* at 204.

291. *Id.*

292. See *id.*

293. See *id.* at 204-05. The skill development component includes budgeting, banking, job skills and job and apartment hunting. See *id.* at 205.

294. See *id.* Attending school or continuing education programs is also strongly encouraged, but not required. See *id.*

295. See *id.* The counselors follow the girls' progress by checking with their employers, schools, and apartment managers on a weekly basis. See *id.*

counseling is available to them.²⁹⁶ After they have completed the program, each girl is assigned a volunteer big sister for the year, and may continue to participate in the YWCA program until the age of eighteen.²⁹⁷ This program has been successful,²⁹⁸ in part, because it includes counseling, job skill development and follow-up treatment.

Programs such as Portland's attract clients because of their quality services. Girls will voluntarily participate in these programs if the programs effectively meet the girls' needs.²⁹⁹ However, many existing programs for girl offenders are ineffective because they fail to address a majority of girls' problems.³⁰⁰ Ineffective programs drive participants away, discourage potential participants from ever joining and waste money. Washington should constantly monitor its state-funded community and non-profit programs and eliminate the unsuccessful programs. Efficacy can be evaluated by examining factors such as levels of client participation, family and client satisfaction, recidivism and subsequent welfare dependency.

In this recommended system, early intervention for girls like Becca would be a key component. When police find a runaway girl, instead of arresting her, they would refer her to government-funded community programs. These programs would provide her with everything from housing and counseling to vocational training. Information about these programs would be available at schools, medical offices and community organizations. Victimized girls should be made aware of their options before running away or turning to crime. If a girl is arrested for criminal conduct, she should be placed in a secure facility where she has equal access to the same quality programming available to young male offenders.

296. *See id.*

297. *See id.*

298. *See id.* During the first year, only 10% of the girls completing at least three months of the program committed a delinquency offense. *See id.*

299. Female juvenile offenders, runaways in particular, are often desperate for good housing and programming. Gail Chang Bohr, executive director of the Children's Law Center of Minnesota, pointed out that in Minnesota "there are waiting lists for programs that provide treatment, schooling and counseling." *Advocates*, *supra* note 21, at 4A.

300. *See supra* Part IV.C.1 (covering the types of programming commonly available to juvenile offenders and how these programs fail to consider the multifaceted needs of girls).

V. Conclusion

Girls brought into the juvenile justice system face discrimination on three levels. Family, government officials and correctional programs all contribute to an overarching process of victimization. This discrimination persists because society has been unwilling to invest the necessary time, thought and money into solving the problems of female juveniles. The political trend in our country is to incarcerate girls for offenses, rather than alleviate the underlying causes of their negative behavior.

The current system in Washington, as in most states, is inexcusable. While Becca's parents and Washington State legislators may have been well-intentioned, the law they created has potentially disastrous consequences. The Becca Bill discriminatorily imprisons girl offenders under the rubric of paternalism and retains them in a system that is, at best, neglectful. The problems, secrets and pain of female delinquents are locked away and are never recognized or addressed.

An equitable and effective juvenile justice system must include deinstitutionalization of status offenses and accessible training and treatment programs specifically designed for troubled girls. Because the Becca Bill does not provide for these changes, more girls like Becca will continue to be victimized by a system that does them more harm than good.